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CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 12

Introduced by Assembly Members Beall and Bass

(Principal coauthor: Senator Liu)

(Coauthors: Assembly Members Adams, Ammiano, Anderson, Tom Berryhill, Block, Blumenfield, Brownley, Carter, Chesbro, Conway, Coto, Davis, De La Torre, De Leon, Emmerson, Eng, Evans, Fletcher, Galgiani, Gilmore, Hall, Hernandez, Huber, Huffman, Jones, Krekorian, Logue, Ma, Monning, Nestande, Niello, John A. Perez, Portantino, Salas, Saldana, Skinner, Smyth, Solorio, Audra Strickland, Swanson, Torlakson, Torrico, Villines, and Yamada)

(Coauthors: Senators Cedillo, DeSaulnier, Ducheny, Hancock, Pavley, Runner, Steinberg, and Wiggins)

December 1, 2008

An act to amend Section 17552 of the Family Code, to amend Sections 1501.1 and 1505 of, and to add Section 1502.7 to, the Health and Safety Code, and to amend Sections 241.1, 293, 295, 297, 300, 303, 317, 358.1, 360, 361.45, 361.5, 366, 366.21, 366.22, 366.25, 366.3, 366.4, 388, 727.2, 785, 10609.4, 11008.15, 11155.5, 11253, 11363, 11376, 11400, 11401, 11401.05, 11401.1, 11401.4, 11401.5, 11402,

11403.2, 11405, 11450, 11450.16, 11454.5, 11461, 11464, 11465, 11466.23, 11466.24, 16120, 16123, 16501, 16501.1, 16501.25, 16503, 16507.3, 16507.4, 16507.6, and 16508 of, to amend, repeal, and add Sections 391 and 11403 of, to add Sections 300.3, 366.31, 11217, and 11401.05 to, to add Article 4.7 (commencing with Section 11385) to, Chapter 2 of Part 3 of Division 9 of, and to repeal and add Article 4.5 (commencing with Section 11360) of Chapter 2 of Part 3 of Title 9 of, the Welfare and Institutions Code, relating to foster children.

LEGISLATIVE COUNSEL'S DIGEST

AB 12, as amended, Beall. California Fostering Connections to Success Act.

(1) Existing law provides for the out-of-home placement of children who are unable to remain in the custody and care of their parent or parents, and provides for a range of child welfare, foster care, and adoption assistance services for which these children may be eligible.

Existing federal law, the Fostering Connections to Success and Increasing Adoptions Act of 2008, revises and expands federal programs and funding for certain foster and adopted children.

Existing law, the California Community Care Facilities Act, provides for the licensure and regulation of community care facilities, including facilities that provide care for foster children, by the State Department of Social Services. A violation of these provisions is a misdemeanor.

Existing law authorizes the placement of children with varying designations and varying needs in the same facility under specified circumstances.

This bill would extend these provisions to also include nonminor dependents commencing January 1, 2012. The bill would define the term “nonminor dependent” and related terms for purposes of the bill.

This bill, commencing no later than July 1, 2012, would require the department, in consultation with specified government and other entities, to revise regulations regarding health and safety standards for licensing foster family homes and community care facilities in which nonminor dependents of the juvenile court are placed under the responsibility of the county welfare or probation department or an Indian tribe that has entered into a specified agreement with the department.

Under existing law, the California Community Care Facilities Act does not apply to designated categories of facilities, including, among

others, the home of a relative caregiver or nonrelative extended family member of a child placed by a juvenile court, as specified.

This bill would include, on and after January 1, 2012, a supervised independent living setting, and a THP-Plus Foster Care Setting, as established by the bill, for a nonminor dependent placed by the juvenile court on the list of facilities to which the act does not apply.

(2) Existing law establishes the jurisdiction of the juvenile court, which is permitted to adjudge certain children to be dependents of the court under certain circumstances.

This bill would expand the jurisdiction of the juvenile court by allowing it, on and after a prescribed date, to adjudge a child placed voluntarily in an approved home of a relative for not more than 180 days a dependent child of the court, if prescribed conditions are met. This bill, effective January 1, 2012, would also include a child who had been previously removed from the custody of his or her parent and placed in foster care, who was also declared a ward of the juvenile court, as specified. The bill would authorize a court to modify an existing order with respect to a ward under these circumstances and assert dependency jurisdiction, as specified.

Existing law authorizes a juvenile court to retain jurisdiction over any person who is found to be a dependent child of the juvenile court until the ward or dependent child attains 21 years of age.

Existing law places certain minors for whom a guardianship has been established within the jurisdiction of the juvenile court.

This bill would expand the court's jurisdiction to include on and after January 1, 2012, a nonminor dependent who is eligible to receive specified kinship guardian assistance payments.

This bill would extend the court's jurisdiction to a ward who has been placed into foster care or a dependent who reaches the age of majority before jurisdiction is terminated until the nonminor reaches 21 years of age. The bill, commencing January 1, 2012, would allow a nonminor who left foster care at or after the age of majority to petition the court to have dependency jurisdiction resumed, in accordance with a provision of existing law. By making various conforming changes in provisions relating to the duties of local agency employees in dependency proceedings, this bill would create a state-mandated local program.

(3) Existing law authorizes a social worker to place a child whom the court has ordered to be removed from his or her home into one of 7 designated placements, including the home of a noncustodial parent or the approved home of a relative.

This bill would add to this list of approved placements, on and after January 1, 2012, a supervised independent living setting, as defined by the bill, for a nonminor dependent between 18 and 21 years of age.

(4) Existing law authorizes a change in the placement of a child on an emergency basis due to the sudden unavailability of a foster caregiver.

This bill, on and after January 1, 2012, would require, under these emergency circumstances, when a nonminor dependent is placed in the home of a relative or nonrelative, that the home be approved using the health and safety standards established by the department for the placement of nonminor dependents, as required by the bill.

(5) Existing law requires the status of dependent children to be periodically reviewed, and requires the court to consider the safety of the child and make certain determinations.

This bill similarly would require every nonminor dependent who is in foster care to be reviewed periodically as determined by the court, as specified. This bill, commencing January 1, 2012, would require the court to ensure that the child's transitional independent living case plan includes a plan for the child to meet one or more criteria that would allow the child to remain a nonminor dependent, and to ensure that the child has been informed of his or her right to seek the termination of dependency jurisdiction.

This bill, on and after October 1, 2012, would authorize a court to continue jurisdiction over a nonminor dependent with a permanent plan of long-term foster care, and would designate the responsibilities of the court in this regard.

(6) Existing law establishes procedures for a hearing to terminate the court's jurisdiction over a dependent child who has reached the age of majority.

This bill would delete the existing hearing procedures as of January 1, 2012, and would set forth revised hearing requirements for determining whether to terminate or continue dependency jurisdiction. The bill would require the court to continue dependency jurisdiction for a child participating in certain educational or vocational activities. This bill would impose various duties on county welfare departments in connection with the hearing process, thereby creating a state-mandated local program.

(7) Existing law requires the State Department of Social Services to develop statewide standards for the Independent Living Program for emancipated foster youth which is established and funded pursuant to federal law to assist these individuals in making the transition to

self-sufficiency. Under existing law, the department is required to develop and adopt emergency regulations that counties are required to meet when administering the program, that are achievable within available resources.

This bill would require the department to develop and adopt the Independent Living Program regulations on or before July 1, 2012, and would specify that the regulations be achievable within both available program resources and available federal funds for case management and case plan review provided for in the federal act. The bill would require the department, on or before July 1, 2011, to review and develop modifications to the Independent Living Program, to also serve the needs of nonminor dependent youth, as specified.

(8) Existing law prohibits benefits under the CalWORKs program from being paid to or on behalf of any child who has attained 18 years of age, unless the child is engaged in specified educational or training activities.

This bill, on and after January 1, 2012, also would authorize a nonminor dependent, as defined, to receive CalWORKs aid, as specified.

(9) Existing law authorizes a child who is declared a ward or dependent child of the court who is 16 years of age or older, to retain specified cash resources and still remain eligible to receive public social services.

This bill would apply this provision, on and after January 1, 2012, to a current or former dependent child or ward of the court between 18 and 21 years of age, who is participating in a transitional independent living case plan pursuant to the federal act.

(10) Existing law, through the Kinship Guardianship Assistance Payment Program (Kin-GAP), which is a part of the CalWORKs program, provides aid on behalf of eligible children who are placed in the home of a relative caretaker. The program is funded by state and county funding and available federal funds. Existing eligibility requirements for the Kin-GAP program include a requirement that a child has been living with a relative for at least 12 consecutive months.

This bill would reduce the above requirement to 6 months, consistent with federal law. To the extent that this would increase duties of counties administering the Kin-GAP program, this bill would impose a state-mandated local program.

This bill would revise the Kin-GAP Program, by repealing the existing program and enacting similar provisions, effective on the date that the Director of Social Services executes a declaration, as required by the

bill, declaring that increased federal financial participation in the Emergency Contingency Fund for State TANF Programs is no longer available pursuant to the federal American Recovery and Reinvestment Act of 2009 (ARRA) (Public Law 111-5), or subsequent federal legislation that maintains or extends increased federal financial participation to provide state-funded assistance for youth not eligible under the federally funded program and would require the state to exercise its option under specified federal law to establish a kinship guardianship assistance payment program, with components as set forth in the bill, for youth eligible for federal financial participation. *This bill would require, as a condition of receiving payments under the revised Kin-GAP Program provisions, that a county welfare agency, probation department, or Indian tribe, as applicable, negotiate and enter into a written, binding kinship guardianship assistance agreement with the relative guardian of an eligible child, as prescribed.* The bill also would make related conforming changes.

This bill, under the revised Kin-GAP Program provisions, also would require a county, at the time of the annual redetermination of state-funded Kin-GAP benefits, to determine whether a child was receiving federal AFDC-FC benefits before receiving Kin-GAP, while a dependent child or ward of the juvenile court. The bill would require the county to reassign these children to the county social worker for information regarding transition to the federal Kin-GAP program.

By increasing county responsibilities this bill would impose a state-mandated local program.

(11) Existing law establishes the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which counties provide payments to foster care providers on behalf of qualified children in foster care. The program is funded by a combination of federal, state, and county funds. Under existing law, AFDC-FC benefits are available, with specified exceptions, on behalf of qualified children under 18 years of age.

This bill would require the department to amend its foster care state plan required under specified federal law, to extend AFDC-FC benefits, commencing January 1, 2012, to specified individuals up to 21 years of age, in accordance with a designated provision of federal law.

This bill would extend AFDC-FC benefits to nonminor dependents, as specified, on and after January 1, 2012, including revising AFDC-FC rate provisions to apply to these individuals. By expanding eligibility

under the county-administered AFDC-FC program, the bill would impose a state-mandated local program.

(12) Under existing law, in order to be eligible for AFDC-FC benefits, a child must be placed in one of 8 designated placements.

This bill would add to the eligible AFDC-FC placements, with respect to an otherwise eligible youth over 18 years of age, an independent, supervised independent living setting. By increasing county duties in administering the AFDC-FC program, the bill would impose a state-mandated local program.

(13) Under existing law, a minor between 16 and 18 years of age who is eligible for AFDC-FC benefits and who meets other specified requirements is eligible for certain transitional housing placement program services in a participating county.

This bill, commencing January 1, 2012, would make a nonminor dependent who is eligible for AFDC-FC benefits also eligible for transitional housing benefits.

This bill would revise existing provisions relating to the resolution of certain foster care overpayments to apply to Kin-GAP guardian homes and payments on behalf of nonminor dependents residing in supervised independent living settings.

(14) Under existing law, a parent or caretaker relative is ineligible to receive CalWORKs aid when he or she has received aid for a cumulative total of 60 months. Existing law excludes from this calculation months when designated conditions exist.

This bill, commencing January 1, 2012, would additionally exclude from the above calculation months when a recipient is a nonminor dependent participating in educational or training activities, as prescribed.

Moneys from the General Fund are continuously appropriated to pay for a portion of CalWORKs aid grant costs, and for the state's share of AFDC-FC costs.

This bill would provide that no appropriation from the General Fund would be made for the purposes of implementing these provisions.

By increasing duties of counties administering the AFDC-FC program, this bill also would impose a state-mandated local program.

(15) Existing law provides for the Adoption Assistance Program (AAP), to be established and administered by the State Department of Social Services or the county, for the purpose of benefiting children residing in foster homes by providing the stability and security of permanent homes. The AAP provides for the payment by the department

and counties, of cash assistance to eligible families that adopt eligible children, and bases the amount of the payment on the needs of the child and the resources of the family to meet those needs. Existing law sets forth eligibility requirements for the AAP, including that a child must be under 18 years of age, or under 21 years of age with a mental or physical disability that warrants continued assistance.

This bill would additionally include children under 21 years of age who turned 16 years of age before the adoption assistance agreement became effective, and is involved in designated education or employment activities, or is incapable of engaging in these activities due to a medical condition. Payment of adoption assistance would be available for these individuals commencing January 1, 2012, as long as specified federal funds remain available and the state continues to exercise its option to extend payments up to 21 years of age pursuant to the federal act.

(16) Existing law requires the state, through the department and county welfare departments, to establish and support a public system of statewide child welfare services. Under existing law, the term “child welfare services” includes various services provided on behalf of children alleged to be the victims of child abuse, neglect, or exploitation. Existing law establishes the case plan as the foundation and central unifying tool in the provision of child welfare services.

This bill would revise the definition of child welfare services to include transitional independent living services, as needed in connection with the provision of other permanent placement services. The bill would revise the requirements for the case plan, effective January 1, 2012, with respect to nonminor dependents, to address the developmental needs of young adults, as specified. The bill would also require the case plan to specify why a group home placement, if made, is necessary for the nonminor dependent’s transition to independent living, and would require the nonminor dependent to participate and develop, and to sign, his or her case plan, commencing January 1, 2012. By increasing the duties of counties in preparing case plans, the bill would impose a state-mandated local program.

This bill would revise the definition of a whole family foster home, to include a home that provides foster care for a nonminor dependent parent and his or her child, for purposes of the AFDC-FC program. Effective January 1, 2012, the bill would require that the same rate be paid for the care and supervision of the child of a nonminor dependent as is paid for the child of a teen parent in a whole family foster home.

The bill would make other provisions applicable to a teen parent, for purposes of the child welfare services program, also applicable to certain nonminor dependents living in a whole family foster home.

Existing law limits child welfare services for voluntarily placed children to a period not to exceed 6 consecutive months, as specified.

This bill would, instead, limit the services to a period not to exceed 180 days, and would make conforming changes.

(17) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known, and may be cited, as the
2 “California Fostering Connections to Success Act.”
3 SEC. 2. Section 17552 of the Family Code is amended to read:
4 17552. (a) The State Department of Social Services, in
5 consultation with the Department of Child Support Services, shall
6 promulgate regulations by which the county child welfare
7 department, in any case of separation or desertion of a parent or
8 parents from a child that results in foster care assistance payments
9 under Section 11400 of, or CalWORKs payments to a caretaker
10 relative of a child who comes within the jurisdiction of the juvenile
11 court under Section 300, 601, or 602 of the Welfare and Institutions
12 Code, who has been removed from the parental home and placed
13 with the caretaker relative by court order, and who is under the
14 supervision of the county child welfare agency or probation
15 department under Section 11250 of, or Kin-GAP payments under
16 Article 4.5 (commencing with Section 11360) or Article 4.7
17 (commencing with Section 11385) of, or aid under subdivision (c)
18 of Section 10101 of, the Welfare and Institutions Code, shall
19 determine whether it is in the best interests of the child to have the

1 case referred to the local child support agency for child support
2 services. If reunification services are not offered or are terminated,
3 the case may be referred to the local child support agency, unless
4 the child's permanent plan is Kin-GAP and the payment of support
5 by the parent may compromise the stability of the related
6 guardianship. In making the determination, the department
7 regulations shall provide the factors the county child welfare
8 department shall consider, including:

9 (1) Whether the payment of support by the parent will pose a
10 barrier to the proposed reunification, in that the payment of support
11 will compromise the parent's ability to meet the requirements of
12 the parent's reunification plan.

13 (2) Whether the payment of support by the parent will pose a
14 barrier to the proposed reunification in that the payment of support
15 will compromise the parent's current or future ability to meet the
16 financial needs of the child.

17 (b) The department regulations shall provide that, where the
18 county child welfare department determines that it is not in the
19 best interests of the child to seek a support order against the parent,
20 the county child welfare department shall refrain from referring
21 the case to the local child support agency. The regulations shall
22 define those circumstances in which it is not in the best interest of
23 the child to refer the case to the local child support agency.

24 (c) The department regulations shall provide, where the county
25 child welfare department determines that it is not in the child's
26 best interest to have his or her case referred to the local child
27 support agency, the county child welfare department shall review
28 that determination annually to coincide with the redetermination
29 of AFDC-FC eligibility under Section 11401.5 of, or the
30 CalWORKs eligibility under Section 11265 of, or Kin-GAP
31 eligibility under Article 4.5 (commencing with Section 11360) or
32 Article 4.7 (commencing with Section 11385) of Chapter 2 of Part
33 3 of Division 9 of, the Welfare and Institutions Code, and shall
34 refer the child's case to the local child support agency upon a
35 determination that, due to a change in the child's circumstances,
36 it is no longer contrary to the child's best interests to have his or
37 her case referred to the local child support agency.

38 (d) The State Department of Social Services shall promulgate
39 all necessary regulations pursuant to this section on or before
40 October 1, 2002.

1 SEC. 3. Section 1501.1 of the Health and Safety Code is
2 amended to read:

3 1501.1. (a) It is the policy of the state to facilitate the proper
4 placement of every child in residential care facilities where the
5 placement is in the best interests of the child. A county may require
6 placement or licensing agencies, or both placement and licensing
7 agencies, to actively seek out-of-home care facilities capable of
8 meeting the varied needs of the child. Therefore, in placing children
9 in out-of-home care, particular attention should be given to the
10 individual child's needs, the ability of the facility to meet those
11 needs, the needs of other children in the facility, the licensing
12 requirements of the facility as determined by the licensing agency,
13 and the impact of the placement on the family reunification plan.

14 (b) Pursuant to this section, children with varying designations
15 and varying needs, including, on and after January 1, 2012,
16 nonminor dependents, as defined in subdivision (v) of Section
17 11400 of the Welfare and Institutions Code, except as provided
18 by statute, may be placed in the same facility provided the facility
19 is licensed, complies with all licensing requirements relevant to
20 the protection of the child, and has a special permit, if necessary,
21 to meet the needs of each child so placed. A facility may not
22 require, as a condition of placement, that a child be identified as
23 an individual with exceptional needs as defined by Section 56026
24 of the Education Code.

25 (c) Neither the requirement for any license nor any regulation
26 shall restrict the implementation of the provisions of this section.
27 Implementation of this section does not obviate the requirement
28 for a facility to be licensed by the department.

29 (d) Pursuant to this section, children with varying designations
30 and varying needs, including, on and after January 1, 2012,
31 nonminor dependents, except as provided by statute, may be placed
32 in the same licensed foster family home or with a foster family
33 agency for subsequent placement in a certified family home.
34 Children with developmental disabilities, mental disorders, or
35 physical disabilities may be placed in licensed foster family homes
36 or certified family homes, provided that an appraisal of the child's
37 needs and the ability of the receiving home to meet those needs is
38 made jointly by the placement agency and the licensee in the case
39 of licensed foster family homes or the placement agency and the
40 foster family agency in the case of certified family homes, and is

1 followed by written confirmation prior to placement. The appraisal
2 shall confirm that the placement poses no threat to any child in the
3 home.

4 For purposes of this chapter, the placing of children by foster
5 family agencies shall be referred to as “subsequent placement” to
6 distinguish the activity from the placing by public agencies.

7 SEC. 4. Section 1502.7 is added to the Health and Safety Code,
8 to read:

9 1502.7. (a) On or before July 1, 2012, the department, in
10 consultation with representatives of the Legislature, the County
11 Welfare Directors Association, the Chief Probation Officers of
12 California, the California Youth Connection, the Judicial Council,
13 former foster youth, child advocacy organizations, dependency
14 counsel for children, juvenile justice advocacy organizations, foster
15 caregiver organizations, labor organizations, and representatives
16 of tribes, shall revise regulations regarding health and safety
17 standards for licensing foster family homes and community care
18 facilities in which nonminor dependents, as defined in subdivision
19 (v) of Section 11400 of the Welfare and Institutions Code, of the
20 juvenile court are placed under the responsibility of the county
21 welfare or probation department or an Indian tribe that entered
22 into an agreement pursuant to Section 10553.1 of the Welfare and
23 Institutions Code.

24 (b) The regulations shall recognize the status of nonminor
25 dependents as legal adults. At a minimum, the regulations shall
26 provide both of the following:

27 (1) That nonminors described in subdivision (a) shall have the
28 greatest amount of freedom that will safely prepare them for
29 self-sufficiency.

30 (2) That nonminors who remain in the same community care
31 facility that they were placed in while under 18 years of age, and
32 that facility has children under 18 years of age need not be subject
33 to criminal background clearances pursuant to Sections 1522 and
34 1522.1.

35 (c) Notwithstanding the Administrative Procedure Act, Chapter
36 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
37 Title 2 of the Government Code, the department shall, in
38 consultation with the stakeholders listed in subdivision (a), prepare
39 for implementation of the applicable provisions of this section by
40 publishing all-county letters or similar instructions from the director

1 by July 1, 2011, to apply from January 1, 2012, to June 30, 2012,
2 inclusive. Emergency regulations to implement this section may
3 be adopted by the director in accordance with the Administrative
4 Procedure Act. The initial adoption of the emergency regulations
5 and one readoption of the initial regulations shall be deemed to be
6 an emergency and necessary for the immediate preservation of the
7 public peace, health, safety, or general welfare. Initial emergency
8 regulations and the first readoption of those emergency regulations
9 shall be exempt from review by the Office of Administrative Law.
10 The emergency regulations authorized by this section shall be
11 submitted to the Office of Administrative Law for filing with the
12 Secretary of State and shall remain in effect for no more than 180
13 days.

14 SEC. 5. Section 1505 of the Health and Safety Code is amended
15 to read:

16 1505. This chapter does not apply to any of the following:

17 (a) Any health facility, as defined by Section 1250.

18 (b) Any clinic, as defined by Section 1202.

19 (c) Any juvenile placement facility approved by the Department
20 of Corrections and Rehabilitation, Division of Juvenile Justice, or
21 any juvenile hall operated by a county.

22 (d) Any place in which a juvenile is judicially placed pursuant
23 to subdivision (a) of Section 727 of the Welfare and Institutions
24 Code.

25 (e) Any child day care facility, as defined in Section 1596.750.

26 (f) Any facility conducted by and for the adherents of any
27 well-recognized church or religious denomination for the purpose
28 of providing facilities for the care or treatment of the sick who
29 depend upon prayer or spiritual means for healing in the practice
30 of the religion of the church or denomination.

31 (g) Any school dormitory or similar facility determined by the
32 department.

33 (h) Any house, institution, hotel, homeless shelter, or other
34 similar place that supplies board and room only, or room only, or
35 board only, provided that no resident thereof requires any element
36 of care as determined by the director.

37 (i) Recovery houses or other similar facilities providing group
38 living arrangements for persons recovering from alcoholism or
39 drug addiction where the facility provides no care or supervision.

1 (j) Any alcoholism or drug abuse recovery or treatment facility
2 as defined by Section 11834.11.

3 (k) Any arrangement for the receiving and care of persons by
4 a relative or any arrangement for the receiving and care of persons
5 from only one family by a close friend of the parent, guardian, or
6 conservator, if the arrangement is not for financial profit and occurs
7 only occasionally and irregularly, as defined by regulations of the
8 department. For purposes of this chapter, arrangements for the
9 receiving and care of persons by a relative shall include relatives
10 of the child for the purpose of keeping sibling groups together.

11 (l) (1) Any home of a relative caregiver of children who are
12 placed by a juvenile court, supervised by the county welfare or
13 probation department, and the placement of whom is approved
14 according to subdivision (d) of Section 309 of the Welfare and
15 Institutions Code.

16 (2) Any home of a nonrelative extended family member, as
17 described in Section 362.7 of the Welfare and Institutions Code,
18 providing care to children who are placed by a juvenile court,
19 supervised by the county welfare or probation department, and the
20 placement of whom is approved according to subdivision (d) of
21 Section 309 of the Welfare and Institutions Code.

22 (3) On and after January 1, 2012, any supervised independent
23 living setting for nonminor dependents, as defined in subdivision
24 (w) of Section 11400 of the Welfare and Institutions Code, who
25 are placed by the juvenile court, supervised by the county welfare
26 department, probation department, or Indian tribe that entered into
27 an agreement pursuant to Section 10553.1 of the Welfare and
28 Institutions Code, and whose placement is approved pursuant to
29 subdivision (k) of Section 11400 of the Welfare and Institutions
30 Code.

31 (4) On and after January 1, 2012, a THP-Plus Foster Care
32 setting, for nonminor dependents, as described in subdivision (v)
33 of Section 11400 of the Welfare and Institutions Code, who are
34 placed by the juvenile court, supervised by the county welfare
35 department or probation department and the placement of whom
36 is approved, in accordance with subdivision (k) of Section 11400
37 of the Welfare and Institutions Code.

38 (m) Any supported living arrangement for individuals with
39 developmental disabilities, as defined in Section 4689 of the
40 Welfare and Institutions Code.

(n) (1) Any family home agency, family home, or family teaching home as defined in Section 4689.1 of the Welfare and Institutions Code, that is vendored by the State Department of Developmental Services and that does any of the following:

(A) As a family home approved by a family home agency, provides 24-hour care for one or two adults with developmental disabilities in the residence of the family home provider or providers and the family home provider or providers' family, and the provider is not licensed by the State Department of Social Services or the State Department of Public Health or certified by a licensee of the State Department of Social Services or the State Department of Public Health.

(B) As a family teaching home approved by a family home agency, provides 24-hour care for a maximum of three adults with developmental disabilities in independent residences, whether contiguous or attached, and the provider is not licensed by the State Department of Social Services or the State Department of Public Health or certified by a licensee of the State Department of Social Services or the State Department of Public Health.

(C) As a family home agency, engages in recruiting, approving, and providing support to family homes.

(2) No part of this subdivision shall be construed as establishing by implication either a family home agency or family home licensing category.

(o) Any facility in which only Indian children who are eligible under the federal Indian Child Welfare Act (Chapter 21 (commencing with Section 1901) of Title 25 of the United States Code) are placed and that is one of the following:

(1) An extended family member of the Indian child, as defined in Section 1903 of Title 25 of the United States Code.

(2) A foster home that is licensed, approved, or specified by the Indian child's tribe pursuant to Section 1915 of Title 25 of the United States Code.

(p) (1) (A) Any housing occupied by elderly or disabled persons, or both, that is initially approved and operated under a regulatory agreement pursuant to Section 202 of Public Law 86-372 (12 U.S.C. Sec. 1701q), or Section 811 of Public Law 101-625 (42 U.S.C. Sec. 8013), or whose mortgage is insured pursuant to Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715z), or that receives mortgage assistance pursuant to Section 221d (3) of Public

1 Law 87-70 (12 U.S.C. Sec. 1715l), where supportive services are
2 made available to residents at their option, as long as the project
3 owner or operator does not contract for or provide the supportive
4 services.

5 (B) Any housing that qualifies for a low-income housing credit
6 pursuant to Section 252 of Public Law 99-514 (26 U.S.C. Sec. 42)
7 or that is subject to the requirements for rental dwellings for
8 low-income families pursuant to Section 8 of Public Law 93-383
9 (42 U.S.C. Sec. 1437f), and that is occupied by elderly or disabled
10 persons, or both, where supportive services are made available to
11 residents at their option, as long as the project owner or operator
12 does not contract for or provide the supportive services.

13 (2) The project owner or operator to which paragraph (1) applies
14 may coordinate, or help residents gain access to, the supportive
15 services, either directly, or through a service coordinator.

16 (q) Any similar facility determined by the director.

17 SEC. 5.5. Section 241.1 of the Welfare and Institutions Code
18 is amended to read:

19 241.1. (a) Whenever a minor appears to come within the
20 description of both Section 300 and Section 601 or 602, the county
21 probation department and the child welfare services department
22 shall, pursuant to a jointly developed written protocol described
23 in subdivision (b), initially determine which status will serve the
24 best interests of the minor and the protection of society. The
25 recommendations of both departments shall be presented to the
26 juvenile court with the petition that is filed on behalf of the minor,
27 and the court shall determine which status is appropriate for the
28 minor. Any other juvenile court having jurisdiction over the minor
29 shall receive notice from the court, within five calendar days, of
30 the presentation of the recommendations of the departments. The
31 notice shall include the name of the judge to whom, or the
32 courtroom to which, the recommendations were presented.

33 (b) The probation department and the child welfare services
34 department in each county shall jointly develop a written protocol
35 to ensure appropriate local coordination in the assessment of a
36 minor described in subdivision (a), and the development of
37 recommendations by these departments for consideration by the
38 juvenile court. These protocols shall require, but not be limited to,
39 consideration of the nature of the referral, the age of the minor,
40 the prior record of the minor's parents for child abuse, the prior

1 record of the minor for out-of-control or delinquent behavior, the
2 parents' cooperation with the minor's school, the minor's
3 functioning at school, the nature of the minor's home environment,
4 and the records of other agencies that have been involved with the
5 minor and his or her family. The protocols also shall contain
6 provisions for resolution of disagreements between the probation
7 and child welfare services departments regarding the need for
8 dependency or ward status and provisions for determining the
9 circumstances under which a request to the court may be made to
10 consider a change in the minor's status.

11 (c) Whenever a minor who is under the jurisdiction of the
12 juvenile court of a county pursuant to Section 300, 601, or 602 is
13 alleged to come within the description of Section 300, 601, or 602
14 by another county, the county probation department or child
15 welfare services department in the county that has jurisdiction
16 under Section 300, 601, or 602 and the county probation
17 department or child welfare services department of the county
18 alleging the minor to be within one of those sections shall initially
19 determine which status will best serve the best interests of the
20 minor and the protection of society. The recommendations of both
21 departments shall be presented to the juvenile court in which the
22 petition is filed on behalf of the minor, and the court shall
23 determine which status is appropriate for the minor. In making
24 their recommendation to the juvenile court, the departments shall
25 conduct an assessment consistent with the requirements of
26 subdivision (b). Any other juvenile court having jurisdiction over
27 the minor shall receive notice from the court in which the petition
28 is filed within five calendar days of the presentation of the
29 recommendations of the departments. The notice shall include the
30 name of the judge to whom, or the courtroom to which, the
31 recommendations were presented.

32 (d) Except as provided in subdivision (e), nothing in this section
33 shall be construed to authorize the filing of a petition or petitions,
34 or the entry of an order by the juvenile court, to make a minor
35 simultaneously both a dependent child and a ward of the court.
36 However, on and after January 1, 2012, the court may modify its
37 order of jurisdiction pursuant to Section 601 or 602, and assert
38 dependency jurisdiction pursuant to subdivision (l) of Section 300.

39 (e) Notwithstanding subdivision (d), the probation department
40 and the child welfare services department, in consultation with the

1 presiding judge of the juvenile court, in any county may create a
2 jointly written protocol to allow the county probation department
3 and the child welfare services department to jointly assess and
4 produce a recommendation that the child be designated as a dual
5 status child, allowing the child to be simultaneously a dependent
6 child and a ward of the court. This protocol shall be signed by the
7 chief probation officer, the director of the county social services
8 agency, and the presiding judge of the juvenile court prior to its
9 implementation. No juvenile court may order that a child is
10 simultaneously a dependent child and a ward of the court pursuant
11 to this subdivision unless and until the required protocol has been
12 created and entered into. This protocol shall include all of the
13 following:

14 (1) A description of the process to be used to determine whether
15 the child is eligible to be designated as a dual status child.

16 (2) A description of the procedure by which the probation
17 department and the child welfare services department will assess
18 the necessity for dual status for specified children and the process
19 to make joint recommendations for the court's consideration prior
20 to making a determination under this section. These
21 recommendations shall ensure a seamless transition from wardship
22 to dependency jurisdiction, as appropriate, so that services to the
23 child are not disrupted upon termination of the wardship.

24 (3) A provision for ensuring communication between the judges
25 who hear petitions concerning children for whom dependency
26 jurisdiction has been suspended while they are within the
27 jurisdiction of the juvenile court pursuant to Section 601 or 602.
28 A judge may communicate by providing a copy of any reports
29 filed pursuant to Section 727.2 concerning a ward to a court that
30 has jurisdiction over dependency proceedings concerning the child.

31 (4) A plan to collect data in order to evaluate the protocol
32 pursuant to Section 241.2.

33 (5) Counties that exercise the option provided for in this
34 subdivision shall adopt either an "on-hold" system as described
35 in subparagraph (A) or a "lead court/lead agency" system as
36 described in subparagraph (B). In no case shall there be any
37 simultaneous or duplicative case management or services provided
38 by both the county probation department and the child welfare
39 services department. It is the intent of the Legislature that judges,

1 in cases in which more than one judge is involved, shall not issue
2 conflicting orders.

3 (A) In counties in which an on-hold system is adopted, the
4 dependency jurisdiction shall be suspended or put on hold while
5 the child is subject to jurisdiction as a ward of the court. When it
6 appears that termination of the court's jurisdiction, as established
7 pursuant to Section 601 or 602, is likely and that reunification of
8 the child with his or her parent or guardian would be detrimental
9 to the child, the county probation department and the child welfare
10 services department shall jointly assess and produce a
11 recommendation for the court regarding whether the court's
12 dependency jurisdiction shall be resumed.

13 (B) In counties in which a lead court/lead agency system is
14 adopted, the protocol shall include a method for identifying which
15 court or agency will be the lead court/lead agency. That court or
16 agency shall be responsible for case management, conducting
17 statutorily mandated court hearings, and submitting court reports.

18 SEC. 6. Section 293 of the Welfare and Institutions Code is
19 amended to read:

20 293. The social worker or probation officer shall give notice
21 of the review hearings held pursuant to Section 366.21, 366.22,
22 or 366.25 in the following manner:

23 (a) Notice of the hearing shall be given to the following persons:

24 (1) The mother.

25 (2) The presumed father or any father receiving services.

26 (3) The legal guardian or guardians.

27 (4) The child, if the child is 10 years of age or older.

28 (5) Any known sibling of the child who is the subject of the
29 hearing if that sibling either is the subject of a dependency
30 proceeding or has been adjudged to be a dependent child of the
31 juvenile court. If the sibling is 10 years of age or older, the sibling,
32 the sibling's caregiver, and the sibling's attorney. If the sibling is
33 under 10 years of age, the sibling's caregiver and the sibling's
34 attorney. However, notice is not required to be given to any sibling
35 whose matter is calendared in the same court on the same day.

36 (6) In the case of a child removed from the physical custody of
37 his or her parent or legal guardian, the current caregiver of the
38 child, including the foster parents, relative caregivers, preadoptive
39 parents, nonrelative extended family members, community care
40 facility, or foster family agency having custody of the child. In a

1 case in which a foster family agency is notified of the hearing
2 pursuant to this section, and the child resides in a foster home
3 certified by the foster family agency, the foster family agency shall
4 provide timely notice of the hearing to the child's caregivers.

5 (7) Each attorney of record if that attorney was not present at
6 the time that the hearing was set by the court.

7 (b) No notice is required for a parent whose parental rights have
8 been terminated. On and after January 1, 2010, in the case of a
9 nonminor dependent, as described in subdivision (v) of Section
10 11400, no notice is required for a parent.

11 (c) The notice of hearing shall be served not earlier than 30
12 days, nor later than 15 days, before the hearing.

13 (d) The notice shall contain a statement regarding the nature of
14 the hearing to be held and any change in the custody or status of
15 the child being recommended by the supervising agency. If the
16 notice is to the child, parent or parents, or legal guardian or
17 guardians, the notice shall also advise them of the right to be
18 present, the right to be represented by counsel, the right to request
19 counsel, and the right to present evidence. The notice shall also
20 state that if the parent or parents or legal guardian or guardians
21 fail to appear, the court may proceed without them.

22 (e) Service of the notice shall be by first-class mail addressed
23 to the last known address of the person to be noticed or by personal
24 service on the person. Service of a copy of the notice shall be by
25 personal service or by certified mail, return receipt requested, or
26 any other form of notice that is equivalent to service by first-class
27 mail.

28 (f) Notice to the current caregiver of the child, including a foster
29 parent, a relative caregiver, a preadoptive parent, or a nonrelative
30 extended family member, or to a certified foster parent who has
31 been approved for adoption, or the State Department of Social
32 Services when it is acting as an adoption agency in counties that
33 are not served by a county adoption agency or by a licensed county
34 adoption agency, shall indicate that the person notified may attend
35 all hearings or may submit any information he or she deems
36 relevant to the court in writing.

37 (g) If the social worker or probation officer knows or has reason
38 to know that an Indian child is involved, notice shall be given in
39 accordance with Section 224.2.

1 SEC. 6.5. Section 295 of the Welfare and Institutions Code is
2 amended to read:

3 295. The social worker or probation officer shall give notice
4 of review hearings held pursuant to Section 366.3 in the following
5 manner:

6 (a) Notice of the hearing shall be given to the following persons:

7 (1) The mother.

8 (2) The presumed father.

9 (3) The legal guardian or guardians.

10 (4) The child, if the child is 10 years of age or older.

11 (5) Any known sibling of the child who is the subject of the
12 hearing if that sibling either is the subject of a dependency
13 proceeding or has been adjudged to be a dependent child of the
14 juvenile court. If the sibling is 10 years of age or older, the sibling,
15 the sibling's caregiver, and the sibling's attorney. If the sibling is
16 under 10 years of age, the sibling's caregiver and the sibling's
17 attorney. However, notice is not required to be given to any sibling
18 whose matter is calendared in the same court on the same day.

19 (6) The current caregiver of the child, including foster parents,
20 relative caregivers, preadoptive parents, nonrelative extended
21 family members, community care facility, or foster family agency
22 having physical custody of the child if a child is removed from the
23 physical custody of the parents or legal guardian. The person
24 notified may attend all hearings and may submit any information
25 he or she deems relevant to the court in writing.

26 (7) The attorney of record if that attorney of record was not
27 present at the time that the hearing was set by the court.

28 (8) The alleged father or fathers, but only if the recommendation
29 is to set a new hearing pursuant to Section 366.26.

30 (b) No notice is required for a parent whose parental rights have
31 been terminated. On and after January 1, 2012, in the case of a
32 nonminor dependent, as described in subdivision (v) of Section
33 11400, no notice is required for a parent.

34 (c) The notice of the review hearing shall be served no earlier
35 than 30 days, nor later than 15 days, before the hearing.

36 (d) The notice of the review hearing shall contain a statement
37 regarding the nature of the hearing to be held, any recommended
38 change in the custody or status of the child, and any
39 recommendation that the court set a new hearing pursuant to
40 Section 366.26 in order to select a more permanent plan.

1 (e) Service of notice shall be by first-class mail addressed to
2 the last known address of the person to be provided notice. In the
3 case of an Indian child, notice shall be by registered mail, return
4 receipt requested.

5 (f) If the child is ordered into a permanent plan of legal
6 guardianship, and subsequently a petition to terminate or modify
7 the guardianship is filed, the probation officer or social worker
8 shall serve notice of the petition not less than 15 court days prior
9 to the hearing on all persons listed in subdivision (a) and on the
10 court that established legal guardianship if it is in another county.

11 (g) If the social worker or probation officer knows or has reason
12 to know that an Indian child is involved, notice shall be given in
13 accordance with Section 224.2.

14 *SEC. 6.7. Section 297 of the Welfare and Institutions Code is*
15 *amended to read:*

16 297. (a) Notice required for an initial petition filed pursuant
17 to Section 300 is applicable to a subsequent petition filed pursuant
18 to Section 342.

19 (b) Upon the filing of a supplemental petition pursuant to Section
20 387, the clerk of the juvenile court shall immediately set the matter
21 for hearing within 30 days of the date of the filing, and the social
22 worker or probation officer shall cause notice thereof to be served
23 upon the persons required by, and in the manner prescribed by,
24 Sections 290.1, 290.2, and 291.

25 (c) If a petition for modification has been filed pursuant to
26 Section 388, and it appears that the best interest of the child may
27 be promoted by the proposed change of the order, the recognition
28 of a sibling relationship, or the termination of jurisdiction, the
29 court shall order that a hearing be held and shall give prior notice,
30 or cause prior notice to be given, to the social worker or probation
31 officer and to the child's attorney of record, or if there is no
32 attorney of record for the child, to the child, and his or her parent
33 or parents or legal guardian or guardians in the manner prescribed
34 by Section 291 unless a different manner is prescribed by the court.

35 (d) If the court knows or has reason to know that an Indian child
36 is involved, notice shall be given in accordance with Section 224.2.

37 (e) *On and after January 1, 2012, if a petition for modification*
38 *has been filed pursuant to subdivision (e) of Section 388 by a*
39 *nonminor dependent, as described in subdivision (v) of Section*
40 *11400, no notice is required for a parent.*

1 SEC. 7. Section 300 of the Welfare and Institutions Code is
2 amended to read:

3 300. Any child who comes within any of the following
4 descriptions is within the jurisdiction of the juvenile court which
5 may adjudge that person to be a dependent child of the court:

6 (a) The child has suffered, or there is a substantial risk that the
7 child will suffer, serious physical harm inflicted nonaccidentally
8 upon the child by the child's parent or guardian. For the purposes
9 of this subdivision, a court may find there is a substantial risk of
10 serious future injury based on the manner in which a less serious
11 injury was inflicted, a history of repeated inflictions of injuries on
12 the child or the child's siblings, or a combination of these and other
13 actions by the parent or guardian which indicate the child is at risk
14 of serious physical harm. For purposes of this subdivision, "serious
15 physical harm" does not include reasonable and age-appropriate
16 spanking to the buttocks where there is no evidence of serious
17 physical injury.

18 (b) The child has suffered, or there is a substantial risk that the
19 child will suffer, serious physical harm or illness, as a result of the
20 failure or inability of his or her parent or guardian to adequately
21 supervise or protect the child, or the willful or negligent failure of
22 the child's parent or guardian to adequately supervise or protect
23 the child from the conduct of the custodian with whom the child
24 has been left, or by the willful or negligent failure of the parent or
25 guardian to provide the child with adequate food, clothing, shelter,
26 or medical treatment, or by the inability of the parent or guardian
27 to provide regular care for the child due to the parent's or
28 guardian's mental illness, developmental disability, or substance
29 abuse. No child shall be found to be a person described by this
30 subdivision solely due to the lack of an emergency shelter for the
31 family. Whenever it is alleged that a child comes within the
32 jurisdiction of the court on the basis of the parent's or guardian's
33 willful failure to provide adequate medical treatment or specific
34 decision to provide spiritual treatment through prayer, the court
35 shall give deference to the parent's or guardian's medical treatment,
36 nontreatment, or spiritual treatment through prayer alone in
37 accordance with the tenets and practices of a recognized church
38 or religious denomination, by an accredited practitioner thereof,
39 and shall not assume jurisdiction unless necessary to protect the
40 child from suffering serious physical harm or illness. In making

1 its determination, the court shall consider (1) the nature of the
2 treatment proposed by the parent or guardian, (2) the risks to the
3 child posed by the course of treatment or nontreatment proposed
4 by the parent or guardian, (3) the risk, if any, of the course of
5 treatment being proposed by the petitioning agency, and (4) the
6 likely success of the courses of treatment or nontreatment proposed
7 by the parent or guardian and agency. The child shall continue to
8 be a dependent child pursuant to this subdivision only so long as
9 is necessary to protect the child from risk of suffering serious
10 physical harm or illness.

11 (c) The child is suffering serious emotional damage, or is at
12 substantial risk of suffering serious emotional damage, evidenced
13 by severe anxiety, depression, withdrawal, or untoward aggressive
14 behavior toward self or others, as a result of the conduct of the
15 parent or guardian or who has no parent or guardian capable of
16 providing appropriate care. No child shall be found to be a person
17 described by this subdivision if the willful failure of the parent or
18 guardian to provide adequate mental health treatment is based on
19 a sincerely held religious belief and if a less intrusive judicial
20 intervention is available.

21 (d) The child has been sexually abused, or there is a substantial
22 risk that the child will be sexually abused, as defined in Section
23 11165.1 of the Penal Code, by his or her parent or guardian or a
24 member of his or her household, or the parent or guardian has
25 failed to adequately protect the child from sexual abuse when the
26 parent or guardian knew or reasonably should have known that
27 the child was in danger of sexual abuse.

28 (e) The child is under the age of five years and has suffered
29 severe physical abuse by a parent, or by any person known by the
30 parent, if the parent knew or reasonably should have known that
31 the person was physically abusing the child. For the purposes of
32 this subdivision, “severe physical abuse” means any of the
33 following: any single act of abuse which causes physical trauma
34 of sufficient severity that, if left untreated, would cause permanent
35 physical disfigurement, permanent physical disability, or death;
36 any single act of sexual abuse which causes significant bleeding,
37 deep bruising, or significant external or internal swelling; or more
38 than one act of physical abuse, each of which causes bleeding,
39 deep bruising, significant external or internal swelling, bone
40 fracture, or unconsciousness; or the willful, prolonged failure to

1 provide adequate food. A child may not be removed from the
2 physical custody of his or her parent or guardian on the basis of a
3 finding of severe physical abuse unless the social worker has made
4 an allegation of severe physical abuse pursuant to Section 332.

5 (f) The child's parent or guardian caused the death of another
6 child through abuse or neglect.

7 (g) The child has been left without any provision for support;
8 physical custody of the child has been voluntarily surrendered
9 pursuant to Section 1255.7 of the Health and Safety Code and the
10 child has not been reclaimed within the 14-day period specified
11 in subdivision (e) of that section; the child's parent has been
12 incarcerated or institutionalized and cannot arrange for the care of
13 the child; or a relative or other adult custodian with whom the child
14 resides or has been left is unwilling or unable to provide care or
15 support for the child, the whereabouts of the parent are unknown,
16 and reasonable efforts to locate the parent have been unsuccessful.

17 (h) The child has been freed for adoption by one or both parents
18 for 12 months by either relinquishment or termination of parental
19 rights or an adoption petition has not been granted.

20 (i) The child has been subjected to an act or acts of cruelty by
21 the parent or guardian or a member of his or her household, or the
22 parent or guardian has failed to adequately protect the child from
23 an act or acts of cruelty when the parent or guardian knew or
24 reasonably should have known that the child was in danger of
25 being subjected to an act or acts of cruelty.

26 (j) The child's sibling has been abused or neglected, as defined
27 in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk
28 that the child will be abused or neglected, as defined in those
29 subdivisions. The court shall consider the circumstances
30 surrounding the abuse or neglect of the sibling, the age and gender
31 of each child, the nature of the abuse or neglect of the sibling, the
32 mental condition of the parent or guardian, and any other factors
33 the court considers probative in determining whether there is a
34 substantial risk to the child.

35 (k) On and after the date that the director executes a declaration
36 pursuant to Section 11217, the child has been placed in an approved
37 relative's home under a voluntary placement agreement pursuant
38 to Section 16507.6 for a period not to exceed 180 days, the parent
39 or guardian is not interested in additional family maintenance or
40 family reunification services, out-of-home placement is in the best

1 interests of the child, and guardianship of the child by that relative
2 is an appropriate option.

3 (l) Effective on and after January 1, 2012, the child was
4 previously removed from the physical custody of the parent or
5 guardian and placed in foster care pursuant to this section or
6 Section 727, and was also declared a ward of the court pursuant
7 to Section 601 or 602 and the court finds that modification of its
8 jurisdiction pursuant to Section 601 or 602 is appropriate, and that
9 immediate return of the child to his or her parent or guardian would
10 be detrimental to the child. This subdivision shall not be the basis
11 for the filing of a petition pursuant to Section 325, but shall only
12 be the basis for modifying the existing jurisdiction of the juvenile
13 court in order to finalize a permanent plan for the child or to allow
14 the child or nonminor dependant to voluntarily remain in foster
15 care pursuant to Section 11403.

16 It is the intent of the Legislature that nothing in this section
17 disrupt the family unnecessarily or intrude inappropriately into
18 family life, prohibit the use of reasonable methods of parental
19 discipline, or prescribe a particular method of parenting. Further,
20 nothing in this section is intended to limit the offering of voluntary
21 services to those families in need of assistance but who do not
22 come within the descriptions of this section. To the extent that
23 savings accrue to the state from child welfare services funding
24 obtained as a result of the enactment of the act that enacted this
25 section, those savings shall be used to promote services which
26 support family maintenance and family reunification plans, such
27 as client transportation, out-of-home respite care, parenting
28 training, and the provision of temporary or emergency in-home
29 caretakers and persons teaching and demonstrating homemaking
30 skills. The Legislature further declares that a physical disability,
31 such as blindness or deafness, is no bar to the raising of happy and
32 well-adjusted children and that a court's determination pursuant
33 to this section shall center upon whether a parent's disability
34 prevents him or her from exercising care and control. The
35 Legislature further declares that a child whose parent has been
36 adjudged a dependent child of the court pursuant to this section
37 shall not be considered to be at risk of abuse or neglect solely
38 because of the age, dependent status, or foster care status of the
39 parent.

1 As used in this section, “guardian” means the legal guardian of
2 the child.

3 SEC. 7.5. Section 300.3 is added to the Welfare and Institutions
4 Code, to read:

5 300.3. (a) Notwithstanding Section 215 or 272, or any other
6 provision of law, a child or nonminor who is found to be a
7 dependent of the court pursuant to subdivision (l) of Section 300
8 and placed in foster care shall be supervised by the probation
9 department of the county in which the court with jurisdiction over
10 the dependent is located. All case management, case plan review
11 and reporting functions as described in Sections 671 and 675 of
12 Title 42 of the United States Code and contained in this article
13 shall be performed by the probation officer for these dependents.

14 (b) This section shall become operative on January 1, 2012.

15 SEC. 8. Section 303 of the Welfare and Institutions Code is
16 amended to read:

17 303. (a) The court may retain jurisdiction over any person who
18 is found to be a dependent child of the juvenile court until the ward
19 or dependent child attains the age of 21 years.

20 (b) On and after January 1, 2012, the court shall have within its
21 jurisdiction any nonminor dependent, as defined in subdivision
22 (v) of Section 11400. The court may terminate its dependency or
23 delinquency jurisdiction over the nonminor dependent between
24 the time the nonminor reaches the age of majority and 21 years of
25 age. If the court terminates dependency or delinquency jurisdiction,
26 the nonminor dependent shall remain under the jurisdiction of the
27 court in order to allow for a petition under subdivision (e) of
28 Section 388.

29 (c) On and after January 1, 2012, a nonminor who has not yet
30 attained 21 years of age and who exited foster care at or after the
31 age of majority may petition the court pursuant to subdivision (e)
32 of Section 388 to resume dependency or delinquency jurisdiction
33 over the nonminor dependent.

34 (d) Nothing in this code, including, but not limited to, Sections
35 340, 366.27, and 369.5, shall be construed to provide legal custody
36 of a person who has attained 18 years of age to the county welfare
37 or probation department or to otherwise abrogate any other rights
38 that a person who has attained 18 years of age may have as an
39 adult under California law. A nonminor dependent shall retain all
40 of his or her legal decisionmaking authority as an adult.

(e) Unless otherwise specified the rights of a dependent child and the responsibilities of the county welfare or probation department, or tribe, and other entities, toward the child and family, shall also apply to nonminor dependents.

SEC. 8.5. *Section 317 of the Welfare and Institutions Code is amended to read:*

317. (a) (1) When it appears to the court that a parent or guardian of the child desires counsel but is presently financially unable to afford and cannot for that reason employ counsel, the court may appoint counsel as provided in this section.

(2) When it appears to the court that a parent or Indian custodian in an Indian child custody proceeding desires counsel but is presently unable to afford and cannot for that reason employ counsel, the provisions of subsection (b) of Section 1912 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.) and Section 23.13 of Title 25 of the Code of Federal Regulations are applicable.

(b) When it appears to the court that a parent or guardian of the child is presently financially unable to afford and cannot for that reason employ counsel, and the child has been placed in out-of-home care, or the petitioning agency is recommending that the child be placed in out-of-home care, the court shall appoint counsel for the parent or guardian, unless the court finds that the parent or guardian has made a knowing and intelligent waiver of counsel as provided in this section.

(c) If a child is not represented by counsel, the court shall appoint counsel for the child unless the court finds that the child would not benefit from the appointment of counsel. The court shall state on the record its reasons for that finding. A primary responsibility of any counsel appointed to represent a child pursuant to this section shall be to advocate for the protection, safety, and physical and emotional well-being of the child. Counsel for the child may be a district attorney, public defender, or other member of the bar, provided that the counsel does not represent another party or county agency whose interests conflict with the child's interests. The fact that the district attorney represents the child in a proceeding pursuant to Section 300 as well as conducts a criminal investigation or files a criminal complaint or information arising from the same or reasonably related set of facts as the proceeding pursuant to Section 300 is not in and of itself a conflict of interest. The court may fix the compensation for the services

1 of appointed counsel. The appointed counsel shall have a caseload
2 and training that ensures adequate representation of the child. The
3 Judicial Council shall promulgate rules of court that establish
4 caseload standards, training requirements, and guidelines for
5 appointed counsel for children and shall adopt rules as required
6 by Section 326.5 no later than July 1, 2001.

7 (d) The counsel appointed by the court shall represent the parent,
8 guardian, or child at the detention hearing and at all subsequent
9 proceedings before the juvenile court. Counsel shall continue to
10 represent the parent, guardian, or child unless relieved by the court
11 upon the substitution of other counsel or for cause. The
12 representation shall include representing the parent, guardian, or
13 the child in termination proceedings and in those proceedings
14 relating to the institution or setting aside of a legal guardianship.
15 *On and after January 1, 2012, in the case of a nonminor dependent,*
16 *as described in subdivision (v) of Section 11400, no representation*
17 *by counsel shall be provided for a parent.*

18 (e) The counsel for the child shall be charged in general with
19 the representation of the child's interests. To that end, the counsel
20 shall make or cause to have made any further investigations that
21 he or she deems in good faith to be reasonably necessary to
22 ascertain the facts, including the interviewing of witnesses, and
23 he or she shall examine and cross-examine witnesses in both the
24 adjudicatory and dispositional hearings. He or she may also
25 introduce and examine his or her own witnesses, make
26 recommendations to the court concerning the child's welfare, and
27 participate further in the proceedings to the degree necessary to
28 adequately represent the child. In any case in which the child is
29 four years of age or older, counsel shall interview the child to
30 determine the child's wishes and to assess the child's well-being,
31 and shall advise the court of the child's wishes. Counsel for the
32 child shall not advocate for the return of the child if, to the best of
33 his or her knowledge, that return conflicts with the protection and
34 safety of the child. In addition counsel shall investigate the interests
35 of the child beyond the scope of the juvenile proceeding and report
36 to the court other interests of the child that may need to be
37 protected by the institution of other administrative or judicial
38 proceedings. The attorney representing a child in a dependency
39 proceeding is not required to assume the responsibilities of a social
40 worker and is not expected to provide nonlegal services to the

1 child. The court shall take whatever appropriate action is necessary
2 to fully protect the interests of the child.

3 (f) Either the child or the counsel for the child, with the informed
4 consent of the child if the child is found by the court to be of
5 sufficient age and maturity to so consent, which shall be presumed,
6 subject to rebuttal by clear and convincing evidence, if the child
7 is over 12 years of age, may invoke the psychotherapist-client
8 privilege, physician-patient privilege, and clergyman-penitent
9 privilege; and if the child invokes the privilege, counsel may not
10 waive it, but if counsel invokes the privilege, the child may waive
11 it. Counsel shall be holder of these privileges if the child is found
12 by the court not to be of sufficient age and maturity to so consent.
13 For the sole purpose of fulfilling his or her obligation to provide
14 legal representation of the child, counsel for a child shall have
15 access to all records with regard to the child maintained by a health
16 care facility, as defined in Section 1545 of the Penal Code, health
17 care providers, as defined in Section 6146 of the Business and
18 Professions Code, a physician and surgeon or other health
19 practitioner, as defined in former Section 11165.8 of the Penal
20 Code, as that section read on January 1, 2000, or a child care
21 custodian, as defined in former Section 11165.7 of the Penal Code,
22 as that section read on January 1, 2000. Notwithstanding any other
23 law, counsel shall be given access to all records relevant to the
24 case which are maintained by state or local public agencies. All
25 information requested from a child protective agency regarding a
26 child who is in protective custody, or from a child's guardian ad
27 litem, shall be provided to the child's counsel within 30 days of
28 the request.

29 (g) In a county of the third class, if counsel is to be provided to
30 a child at county expense other than by counsel for the agency,
31 the court shall first utilize the services of the public defender prior
32 to appointing private counsel, to provide legal counsel. Nothing
33 in this subdivision shall be construed to require the appointment
34 of the public defender in any case in which the public defender
35 has a conflict of interest. In the interest of justice, a court may
36 depart from that portion of the procedure requiring appointment
37 of the public defender after making a finding of good cause and
38 stating the reasons therefor on the record.

39 (h) In a county of the third class, if counsel is to be appointed
40 for a parent or guardian at county expense, the court shall first

1 utilize the services of the alternate public defender, prior to
2 appointing private counsel, to provide legal counsel. Nothing in
3 this subdivision shall be construed to require the appointment of
4 the alternate public defender in any case in which the public
5 defender has a conflict of interest. In the interest of justice, a court
6 may depart from that portion of the procedure requiring
7 appointment of the alternate public defender after making a finding
8 of good cause and stating the reasons therefor on the record.

9 SEC. 9. Section 358.1 of the Welfare and Institutions Code,
10 as amended by Section 4 of Chapter 287 of the Statutes of 2009,
11 is amended to read:

12 358.1. Each social study or evaluation made by a social worker
13 or child advocate appointed by the court, required to be received
14 in evidence pursuant to Section 358, shall include, but not be
15 limited to, a factual discussion of each of the following subjects:

16 (a) Whether the county welfare department or social worker has
17 considered child protective services, as defined in Chapter 5
18 (commencing with Section 16500) of Part 4 of Division 9, as a
19 possible solution to the problems at hand, and has offered these
20 services to qualified parents if appropriate under the circumstances.

21 (b) What plan, if any, for return of the child to his or her parents
22 and for achieving legal permanence for the child if efforts to reunify
23 fail, is recommended to the court by the county welfare department
24 or probation officer.

25 (c) Whether the best interests of the child will be served by
26 granting reasonable visitation rights with the child to his or her
27 grandparents, in order to maintain and strengthen the child's family
28 relationships.

29 (d) (1) Whether the child has siblings under the court's
30 jurisdiction, and, if any siblings exist, all of the following:

31 (A) The nature of the relationship between the child and his or
32 her siblings.

33 (B) The appropriateness of developing or maintaining the sibling
34 relationships pursuant to Section 16002.

35 (C) If the siblings are not placed together in the same home,
36 why the siblings are not placed together and what efforts are being
37 made to place the siblings together, or why those efforts are not
38 appropriate.

39 (D) If the siblings are not placed together, the frequency and
40 nature of the visits between siblings.

1 (E) The impact of the sibling relationships on the child's
2 placement and planning for legal permanence.

3 (2) The factual discussion shall include a discussion of indicators
4 of the nature of the child's sibling relationships, including, but not
5 limited to, whether the siblings were raised together in the same
6 home, whether the siblings have shared significant common
7 experiences or have existing close and strong bonds, whether either
8 sibling expresses a desire to visit or live with his or her sibling, as
9 applicable, and whether ongoing contact is in the child's best
10 emotional interest.

11 (e) If the parent or guardian is unwilling or unable to participate
12 in making an educational decision for his or her child, or if other
13 circumstances exist that compromise the ability of the parent or
14 guardian to make educational decisions for the child, the county
15 welfare department or social worker shall consider whether the
16 right of the parent or guardian to make educational decisions for
17 the child should be limited. If the study or evaluation makes that
18 recommendation, it shall identify whether there is a responsible
19 adult available to make educational decisions for the child pursuant
20 to Section 361.

21 (f) Whether the child appears to be a person who is eligible to
22 be considered for further court action to free the child from parental
23 custody and control.

24 (g) Whether the parent has been advised of his or her option to
25 participate in adoption planning, including the option to enter into
26 a postadoption contact agreement as described in Section 8714.7
27 of the Family Code, and to voluntarily relinquish the child for
28 adoption if an adoption agency is willing to accept the
29 relinquishment.

30 (h) The appropriateness of any relative placement pursuant to
31 Section 361.3. However, this consideration may not be cause for
32 continuance of the dispositional hearing.

33 (i) Whether the caregiver desires, and is willing, to provide legal
34 permanency for the child if reunification is unsuccessful.

35 (j) For an Indian child, in consultation with the Indian child's
36 tribe, whether tribal customary adoption is an appropriate
37 permanent plan for the child if reunification is unsuccessful.

38 (k) On and after the date that the director executes a declaration
39 pursuant to Section 11217, whether the child has been placed in
40 an approved relative's home under a voluntary placement

1 agreement for a period not to exceed 180 days, the parent or
2 guardian is not interested in additional family maintenance or
3 family reunification services, and the relative desires and is willing
4 to be appointed the child's legal guardian.

5 (l) This section shall remain in effect only until January 1, 2014,
6 and as of that date is repealed, unless a later enacted statute, that
7 is enacted before January 1, 2014, deletes or extends that date.

8 SEC. 10. Section 358.1 of the Welfare and Institutions Code,
9 as added by Section 5 of Chapter 287 of the Statutes of 2009, is
10 amended to read:

11 358.1. Each social study or evaluation made by a social worker
12 or child advocate appointed by the court, required to be received
13 in evidence pursuant to Section 358, shall include, but not be
14 limited to, a factual discussion of each of the following subjects:

15 (a) Whether the county welfare department or social worker has
16 considered child protective services, as defined in Chapter 5
17 (commencing with Section 16500) of Part 4 of Division 9, as a
18 possible solution to the problems at hand, and has offered these
19 services to qualified parents if appropriate under the circumstances.

20 (b) What plan, if any, for return of the child to his or her parents
21 and for achieving legal permanence for the child if efforts to reunify
22 fail, is recommended to the court by the county welfare department
23 or probation officer.

24 (c) Whether the best interests of the child will be served by
25 granting reasonable visitation rights with the child to his or her
26 grandparents, in order to maintain and strengthen the child's family
27 relationships.

28 (d) (1) Whether the child has siblings under the court's
29 jurisdiction, and, if any siblings exist, all of the following:

30 (A) The nature of the relationship between the child and his or
31 her siblings.

32 (B) The appropriateness of developing or maintaining the sibling
33 relationships pursuant to Section 16002.

34 (C) If the siblings are not placed together in the same home,
35 why the siblings are not placed together and what efforts are being
36 made to place the siblings together, or why those efforts are not
37 appropriate.

38 (D) If the siblings are not placed together, the frequency and
39 nature of the visits between siblings.

1 (E) The impact of the sibling relationships on the child's
2 placement and planning for legal permanence.

3 (2) The factual discussion shall include a discussion of indicators
4 of the nature of the child's sibling relationships, including, but not
5 limited to, whether the siblings were raised together in the same
6 home, whether the siblings have shared significant common
7 experiences or have existing close and strong bonds, whether either
8 sibling expresses a desire to visit or live with his or her sibling, as
9 applicable, and whether ongoing contact is in the child's best
10 emotional interest.

11 (e) If the parent or guardian is unwilling or unable to participate
12 in making an educational decision for his or her child, or if other
13 circumstances exist that compromise the ability of the parent or
14 guardian to make educational decisions for the child, the county
15 welfare department or social worker shall consider whether the
16 right of the parent or guardian to make educational decisions for
17 the child should be limited. If the study or evaluation makes that
18 recommendation, it shall identify whether there is a responsible
19 adult available to make educational decisions for the child pursuant
20 to Section 361.

21 (f) Whether the child appears to be a person who is eligible to
22 be considered for further court action to free the child from parental
23 custody and control.

24 (g) Whether the parent has been advised of his or her option to
25 participate in adoption planning, including the option to enter into
26 a postadoption contact agreement as described in Section 8714.7
27 of the Family Code, and to voluntarily relinquish the child for
28 adoption if an adoption agency is willing to accept the
29 relinquishment.

30 (h) The appropriateness of any relative placement pursuant to
31 Section 361.3. However, this consideration may not be cause for
32 continuance of the dispositional hearing.

33 (i) Whether the caregiver desires, and is willing, to provide legal
34 permanency for the child if reunification is unsuccessful.

35 (j) For an Indian child, in consultation with the Indian child's
36 tribe, whether tribal customary adoption is an appropriate
37 permanent plan for the child if reunification is unsuccessful.

38 (k) On and after the date that the director executes a declaration
39 pursuant to Section 11217, whether the child has been placed in
40 an approved relative's home under a voluntary placement

1 agreement for a period not to exceed 180 days, the parent or
2 guardian is not interested in additional family maintenance or
3 family reunification services, and the relative desires and is willing
4 to be appointed the child's legal guardian.

5 (l) This section shall become operative on January 1, 2014.

6 SEC. 11. Section 360 of the Welfare and Institutions Code is
7 amended to read:

8 360. After receiving and considering the evidence on the proper
9 disposition of the case, the juvenile court may enter judgment as
10 follows:

11 (a) Notwithstanding any other provision of law, if the court
12 finds that the child is a person described by Section 300 and the
13 parent has advised the court that the parent is not interested in
14 family maintenance or family reunification services, it may, in
15 addition to or in lieu of adjudicating the child a dependent child
16 of the court, order a legal guardianship, appoint a legal guardian,
17 and issue letters of guardianship, if the court determines that a
18 guardianship is in the best interest of the child, provided the parent
19 and the child agree to the guardianship, unless the child's age or
20 physical, emotional, or mental condition prevents the child's
21 meaningful response. The court shall advise the parent and the
22 child that no reunification services will be provided as a result of
23 the establishment of a guardianship. The proceeding for the
24 appointment of a guardian shall be in the juvenile court.

25 Any application for termination of guardianship shall be filed
26 in juvenile court in a form as may be developed by the Judicial
27 Council pursuant to Section 68511 of the Government Code.
28 Sections 366.4 and 388 shall apply to this order of guardianship.

29 No person shall be appointed a legal guardian under this section
30 until an assessment as specified in subdivision (g) of Section 361.5
31 is read and considered by the court and reflected in the minutes of
32 the court.

33 On and after the date that the director executes a declaration
34 pursuant to Section 11217, if the court appoints an approved
35 relative caregiver as the child's legal guardian, the child has been
36 in the care of that relative for a period of six consecutive months
37 under a voluntary placement agreement, and the child otherwise
38 meets the conditions for federal financial participation, the child
39 shall be eligible for aid under the Kin-GAP Program as provided
40 in Article 4.7 (commencing with Section 11385) of Chapter 2.

1 The person responsible for preparing the assessment may be
2 called and examined by any party to the guardianship proceeding.

3 (b) If the court finds that the child is a person described by
4 Section 300, it may, without adjudicating the child a dependent
5 child of the court, order that services be provided to keep the family
6 together and place the child and the child's parent or guardian
7 under the supervision of the social worker for a time period
8 consistent with Section 301.

9 (c) If the family subsequently is unable or unwilling to cooperate
10 with the services being provided, the social worker may file a
11 petition with the juvenile court pursuant to Section 332 alleging
12 that a previous petition has been sustained and that disposition
13 pursuant to subdivision (b) has been ineffective in ameliorating
14 the situation requiring the child welfare services. Upon hearing
15 the petition, the court shall order either that the petition shall be
16 dismissed or that a new disposition hearing shall be held pursuant
17 to subdivision (d).

18 (d) If the court finds that the child is a person described by
19 Section 300, it may order and adjudge the child to be a dependent
20 child of the court.

21 SEC. 12. Section 361.45 of the Welfare and Institutions Code
22 is amended to read:

23 361.45. (a) Notwithstanding any other provision of law, when
24 the sudden unavailability of a foster caregiver requires a change
25 in placement on an emergency basis for a child who is under the
26 jurisdiction of the juvenile court pursuant to Section 300, if an able
27 and willing relative, as defined in Section 319, or an able and
28 willing nonrelative extended family member, as defined in Section
29 362.7, is available and requests temporary placement of the child
30 pending resolution of the emergency situation, the county welfare
31 department shall initiate an assessment of the relative's or
32 nonrelative extended family member's suitability, which shall
33 include an in-home inspection to assess the safety of the home and
34 the ability of the relative or nonrelative extended family member
35 to care for the child's needs, and a consideration of the results of
36 a criminal records check conducted pursuant to Section 16504.5
37 and a check of allegations of prior child abuse or neglect
38 concerning the relative or nonrelative extended family member
39 and other adults in the home. Upon completion of this assessment,
40 the child may be placed in the assessed home. For purposes of this

1 paragraph, and except for the criminal records check conducted
2 pursuant to Section 16504.5, the standards used to determine
3 suitability shall be the same standards set forth in the regulations
4 for the licensing of foster family homes.

5 (b) Immediately following the placement of a child in the home
6 of a relative or a nonrelative extended family member, the county
7 welfare department shall evaluate and approve or deny the home
8 for purposes of AFDC-FC eligibility pursuant to Section 11402.
9 The standards used to evaluate and grant or deny approval of the
10 home of the relative and of the home of a nonrelative extended
11 family member, as described in Section 362.7, shall be the same
12 standards set forth in regulations for the licensing of foster family
13 homes which prescribe standards of safety and sanitation for the
14 physical plant and standards for basic personal care, supervision,
15 and services provided by the caregiver.

16 (c) If a relative or nonrelative extended family member, and
17 other adults in the home, as indicated, meets all other conditions
18 for approval, except for the receipt of the Federal Bureau of
19 Investigation's criminal history information for the relative or
20 nonrelative extended family member, the county welfare
21 department may approve the home and document that approval,
22 if the relative or nonrelative extended family member, and each
23 adult in the home, has signed and submitted a statement that he or
24 she has never been convicted of a crime in the United States, other
25 than a traffic infraction as defined in paragraph (1) of subdivision
26 (a) of Section 42001 of the Vehicle Code. If, after the approval
27 has been granted, the department determines that the relative or
28 nonrelative extended family member or other adult in the home
29 has a criminal record, the approval may be terminated.

30 (d) On and after January 1, 2012, if a nonminor dependent, as
31 defined in subdivision (v) of Section 11400, is placed in the home
32 of a relative or nonrelative extended family member, the home
33 shall be approved using the same standards set forth in regulations
34 as described in Section 1502.7 of the Health and Safety Code.

35 SEC. 13. Section 361.5 of the Welfare and Institutions Code,
36 as amended by Section 6 of Chapter 287 of the Statutes of 2009,
37 is amended to read:

38 361.5. (a) Except as provided in subdivision (b), or when the
39 parent has voluntarily relinquished the child and the relinquishment
40 has been filed with the State Department of Social Services, or

1 upon the establishment of an order of guardianship pursuant to
2 Section 360, whenever a child is removed from a parent's or
3 guardian's custody, the juvenile court shall order the social worker
4 to provide child welfare services to the child and the child's mother
5 and statutorily presumed father or guardians. Upon a finding and
6 declaration of paternity by the juvenile court or proof of a prior
7 declaration of paternity by any court of competent jurisdiction, the
8 juvenile court may order services for the child and the biological
9 father, if the court determines that the services will benefit the
10 child.

11 (1) Family reunification services, when provided, shall be
12 provided as follows:

13 (A) Except as otherwise provided in subparagraph (C), for a
14 child who, on the date of initial removal from the physical custody
15 of his or her parent or guardian, was three years of age or older,
16 court-ordered services shall be provided beginning with the
17 dispositional hearing and ending 12 months after the date the child
18 entered foster care as defined in Section 361.49, unless the child
19 is returned to the home of the parent or guardian.

20 (B) For a child who, on the date of initial removal from the
21 physical custody of his or her parent or guardian, was under three
22 years of age, court-ordered services shall be provided for a period
23 of six months from the dispositional hearing as provided in
24 subdivision (e) of Section 366.21, but no longer than 12 months
25 from the date the child entered foster care as defined in Section
26 361.49 unless the child is returned to the home of the parent or
27 guardian.

28 (C) For the purpose of placing and maintaining a sibling group
29 together in a permanent home should reunification efforts fail, for
30 a child in a sibling group whose members were removed from
31 parental custody at the same time, and in which one member of
32 the sibling group was under three years of age on the date of initial
33 removal from the physical custody of his or her parent or guardian,
34 court-ordered services for some or all of the sibling group may be
35 limited as set forth in subparagraph (B). For the purposes of this
36 paragraph, "a sibling group" shall mean two or more children who
37 are related to each other as full or half siblings.

38 (2) Any motion to terminate court-ordered reunification services
39 prior to the hearing set pursuant to subdivision (f) of Section 366.21
40 for a child described by subparagraph (A) of paragraph (1), or

1 prior to the hearing set pursuant to subdivision (e) of Section
2 366.21 for a child described by subparagraph (B) or (C) of
3 paragraph (1), shall be made pursuant to the requirements set forth
4 in subdivision (c) of Section 388. A motion to terminate
5 court-ordered reunification services shall not be required at the
6 hearing set pursuant to subdivision (e) of Section 366.21 if the
7 court finds by clear and convincing evidence one of the following:

8 (A) That the child was removed initially under subdivision (g)
9 of Section 300 and the whereabouts of the parent are still unknown.

10 (B) That the parent has failed to contact and visit the child.

11 (C) That the parent has been convicted of a felony indicating
12 parental unfitness.

13 (3) Notwithstanding subparagraphs (A), (B), and (C) of
14 paragraph (1), court-ordered services may be extended up to a
15 maximum time period not to exceed 18 months after the date the
16 child was originally removed from physical custody of his or her
17 parent or guardian if it can be shown, at the hearing held pursuant
18 to subdivision (f) of Section 366.21, that the permanent plan for
19 the child is that he or she will be returned and safely maintained
20 in the home within the extended time period. The court shall extend
21 the time period only if it finds that there is a substantial probability
22 that the child will be returned to the physical custody of his or her
23 parent or guardian within the extended time period or that
24 reasonable services have not been provided to the parent or
25 guardian. In determining whether court-ordered services may be
26 extended, the court shall consider the special circumstances of an
27 incarcerated or institutionalized parent or parents, or parent or
28 parents court-ordered to a residential substance abuse treatment
29 program, including, but not limited to, barriers to the parent's or
30 guardian's access to services and ability to maintain contact with
31 his or her child. The court shall also consider, among other factors,
32 good faith efforts that the parent or guardian has made to maintain
33 contact with the child. If the court extends the time period, the
34 court shall specify the factual basis for its conclusion that there is
35 a substantial probability that the child will be returned to the
36 physical custody of his or her parent or guardian within the
37 extended time period. The court also shall make findings pursuant
38 to subdivision (a) of Section 366 and subdivision (e) of Section
39 358.1.

1 When counseling or other treatment services are ordered, the
2 parent or guardian shall be ordered to participate in those services,
3 unless the parent's or guardian's participation is deemed by the
4 court to be inappropriate or potentially detrimental to the child, or
5 unless a parent or guardian is incarcerated and the corrections
6 facility in which he or she is incarcerated does not provide access
7 to the treatment services ordered by the court. Physical custody of
8 the child by the parents or guardians during the applicable time
9 period under subparagraph (A), (B), or (C) of paragraph (1) shall
10 not serve to interrupt the running of the period. If at the end of the
11 applicable time period, a child cannot be safely returned to the
12 care and custody of a parent or guardian without court supervision,
13 but the child clearly desires contact with the parent or guardian,
14 the court shall take the child's desire into account in devising a
15 permanency plan.

16 In cases where the child was under three years of age on the date
17 of the initial removal from the physical custody of his or her parent
18 or guardian or is a member of a sibling group as described in
19 subparagraph (C) of paragraph (1), the court shall inform the parent
20 or guardian that the failure of the parent or guardian to participate
21 regularly in any court-ordered treatment programs or to cooperate
22 or avail himself or herself of services provided as part of the child
23 welfare services case plan may result in a termination of efforts
24 to reunify the family after six months. The court shall inform the
25 parent or guardian of the factors used in subdivision (e) of Section
26 366.21 to determine whether to limit services to six months for
27 some or all members of a sibling group as described in
28 subparagraph (C) of paragraph (1).

29 (4) Notwithstanding paragraph (3), court-ordered services may
30 be extended up to a maximum time period not to exceed 24 months
31 after the date the child was originally removed from physical
32 custody of his or her parent or guardian if it is shown, at the hearing
33 held pursuant to subdivision (b) of Section 366.22, that the
34 permanent plan for the child is that he or she will be returned and
35 safely maintained in the home within the extended time period.
36 The court shall extend the time period only if it finds that it is in
37 the child's best interest to have the time period extended and that
38 there is a substantial probability that the child will be returned to
39 the physical custody of his or her parent or guardian who is
40 described in subdivision (b) of Section 366.22 within the extended

1 time period, or that reasonable services have not been provided to
2 the parent or guardian. If the court extends the time period, the
3 court shall specify the factual basis for its conclusion that there is
4 a substantial probability that the child will be returned to the
5 physical custody of his or her parent or guardian within the
6 extended time period. The court also shall make findings pursuant
7 to subdivision (a) of Section 366 and subdivision (e) of Section
8 358.1.

9 When counseling or other treatment services are ordered, the
10 parent or guardian shall be ordered to participate in those services,
11 in order for substantial probability to be found. Physical custody
12 of the child by the parents or guardians during the applicable time
13 period under subparagraph (A), (B), or (C) of paragraph (1) shall
14 not serve to interrupt the running of the period. If at the end of the
15 applicable time period, the child cannot be safely returned to the
16 care and custody of a parent or guardian without court supervision,
17 but the child clearly desires contact with the parent or guardian,
18 the court shall take the child's desire into account in devising a
19 permanency plan.

20 Except in cases where, pursuant to subdivision (b), the court
21 does not order reunification services, the court shall inform the
22 parent or parents of Section 366.26 and shall specify that the
23 parent's or parents' parental rights may be terminated.

24 (b) Reunification services need not be provided to a parent or
25 guardian described in this subdivision when the court finds, by
26 clear and convincing evidence, any of the following:

27 (1) That the whereabouts of the parent or guardian is unknown.
28 A finding pursuant to this paragraph shall be supported by an
29 affidavit or by proof that a reasonably diligent search has failed
30 to locate the parent or guardian. The posting or publication of
31 notices is not required in that search.

32 (2) That the parent or guardian is suffering from a mental
33 disability that is described in Chapter 2 (commencing with Section
34 7820) of Part 4 of Division 12 of the Family Code and that renders
35 him or her incapable of utilizing those services.

36 (3) That the child or a sibling of the child has been previously
37 adjudicated a dependent pursuant to any subdivision of Section
38 300 as a result of physical or sexual abuse, that following that
39 adjudication the child had been removed from the custody of his
40 or her parent or guardian pursuant to Section 361, that the child

1 has been returned to the custody of the parent or guardian from
2 whom the child had been taken originally, and that the child is
3 being removed pursuant to Section 361, due to additional physical
4 or sexual abuse.

5 (4) That the parent or guardian of the child has caused the death
6 of another child through abuse or neglect.

7 (5) That the child was brought within the jurisdiction of the
8 court under subdivision (e) of Section 300 because of the conduct
9 of that parent or guardian.

10 (6) That the child has been adjudicated a dependent pursuant
11 to any subdivision of Section 300 as a result of severe sexual abuse
12 or the infliction of severe physical harm to the child, a sibling, or
13 a half sibling by a parent or guardian, as defined in this subdivision,
14 and the court makes a factual finding that it would not benefit the
15 child to pursue reunification services with the offending parent or
16 guardian.

17 A finding of severe sexual abuse, for the purposes of this
18 subdivision, may be based on, but is not limited to, sexual
19 intercourse, or stimulation involving genital-genital, oral-genital,
20 anal-genital, or oral-anal contact, whether between the parent or
21 guardian and the child or a sibling or half sibling of the child, or
22 between the child or a sibling or half sibling of the child and
23 another person or animal with the actual or implied consent of the
24 parent or guardian; or the penetration or manipulation of the
25 child's, sibling's, or half sibling's genital organs or rectum by any
26 animate or inanimate object for the sexual gratification of the
27 parent or guardian, or for the sexual gratification of another person
28 with the actual or implied consent of the parent or guardian.

29 A finding of the infliction of severe physical harm, for the
30 purposes of this subdivision, may be based on, but is not limited
31 to, deliberate and serious injury inflicted to or on a child's body
32 or the body of a sibling or half sibling of the child by an act or
33 omission of the parent or guardian, or of another individual or
34 animal with the consent of the parent or guardian; deliberate and
35 torturous confinement of the child, sibling, or half sibling in a
36 closed space; or any other torturous act or omission that would be
37 reasonably understood to cause serious emotional damage.

38 (7) That the parent is not receiving reunification services for a
39 sibling or a half sibling of the child pursuant to paragraph (3), (5),
40 or (6).

1 (8) That the child was conceived by means of the commission
2 of an offense listed in Section 288 or 288.5 of the Penal Code, or
3 by an act committed outside of this state that, if committed in this
4 state, would constitute one of those offenses. This paragraph only
5 applies to the parent who committed the offense or act.

6 (9) That the child has been found to be a child described in
7 subdivision (g) of Section 300, that the parent or guardian of the
8 child willfully abandoned the child, and the court finds that the
9 abandonment itself constituted a serious danger to the child; or
10 that the parent or other person having custody of the child
11 voluntarily surrendered physical custody of the child pursuant to
12 Section 1255.7 of the Health and Safety Code. For the purposes
13 of this paragraph, “serious danger” means that without the
14 intervention of another person or agency, the child would have
15 sustained severe or permanent disability, injury, illness, or death.
16 For purposes of this paragraph, “willful abandonment” shall not
17 be construed as actions taken in good faith by the parent without
18 the intent of placing the child in serious danger.

19 (10) That the court ordered termination of reunification services
20 for any siblings or half siblings of the child because the parent or
21 guardian failed to reunify with the sibling or half sibling after the
22 sibling or half sibling had been removed from that parent or
23 guardian pursuant to Section 361 and that parent or guardian is
24 the same parent or guardian described in subdivision (a) and that,
25 according to the findings of the court, this parent or guardian has
26 not subsequently made a reasonable effort to treat the problems
27 that led to removal of the sibling or half sibling of that child from
28 that parent or guardian.

29 (11) That the parental rights of a parent over any sibling or half
30 sibling of the child had been permanently severed, and this parent
31 is the same parent described in subdivision (a), and that, according
32 to the findings of the court, this parent has not subsequently made
33 a reasonable effort to treat the problems that led to removal of the
34 sibling or half sibling of that child from the parent.

35 (12) That the parent or guardian of the child has been convicted
36 of a violent felony, as defined in subdivision (c) of Section 667.5
37 of the Penal Code.

38 (13) That the parent or guardian of the child has a history of
39 extensive, abusive, and chronic use of drugs or alcohol and has
40 resisted prior court-ordered treatment for this problem during a

1 three-year period immediately prior to the filing of the petition
2 that brought that child to the court's attention, or has failed or
3 refused to comply with a program of drug or alcohol treatment
4 described in the case plan required by Section 358.1 on at least
5 two prior occasions, even though the programs identified were
6 available and accessible.

7 (14) That the parent or guardian of the child has advised the
8 court that he or she is not interested in receiving family
9 maintenance or family reunification services or having the child
10 returned to or placed in his or her custody and does not wish to
11 receive family maintenance or reunification services.

12 The parent or guardian shall be represented by counsel and shall
13 execute a waiver of services form to be adopted by the Judicial
14 Council. The court shall advise the parent or guardian of any right
15 to services and of the possible consequences of a waiver of
16 services, including the termination of parental rights and placement
17 of the child for adoption. The court shall not accept the waiver of
18 services unless it states on the record its finding that the parent or
19 guardian has knowingly and intelligently waived the right to
20 services.

21 (15) That the parent or guardian has on one or more occasions
22 willfully abducted the child or child's sibling or half sibling from
23 his or her placement and refused to disclose the child's or child's
24 sibling's or half sibling's whereabouts, refused to return physical
25 custody of the child or child's sibling or half sibling to his or her
26 placement, or refused to return physical custody of the child or
27 child's sibling or half sibling to the social worker.

28 (c) In deciding whether to order reunification in any case in
29 which this section applies, the court shall hold a dispositional
30 hearing. The social worker shall prepare a report that discusses
31 whether reunification services shall be provided. When it is alleged,
32 pursuant to paragraph (2) of subdivision (b), that the parent is
33 incapable of utilizing services due to mental disability, the court
34 shall order reunification services unless competent evidence from
35 mental health professionals establishes that, even with the provision
36 of services, the parent is unlikely to be capable of adequately caring
37 for the child within the time limits specified in subdivision (a).

38 The court shall not order reunification for a parent or guardian
39 described in paragraph (3), (4), (6), (7), (8), (9), (10), (11), (12),
40 (13), (14), or (15) of subdivision (b) unless the court finds, by clear

1 and convincing evidence, that reunification is in the best interest
2 of the child.

3 In addition, the court shall not order reunification in any situation
4 described in paragraph (5) of subdivision (b) unless it finds that,
5 based on competent testimony, those services are likely to prevent
6 reabuse or continued neglect of the child or that failure to try
7 reunification will be detrimental to the child because the child is
8 closely and positively attached to that parent. The social worker
9 shall investigate the circumstances leading to the removal of the
10 child and advise the court whether there are circumstances that
11 indicate that reunification is likely to be successful or unsuccessful
12 and whether failure to order reunification is likely to be detrimental
13 to the child.

14 The failure of the parent to respond to previous services, the fact
15 that the child was abused while the parent was under the influence
16 of drugs or alcohol, a past history of violent behavior, or testimony
17 by a competent professional that the parent's behavior is unlikely
18 to be changed by services are among the factors indicating that
19 reunification services are unlikely to be successful. The fact that
20 a parent or guardian is no longer living with an individual who
21 severely abused the child may be considered in deciding that
22 reunification services are likely to be successful, provided that the
23 court shall consider any pattern of behavior on the part of the parent
24 that has exposed the child to repeated abuse.

25 (d) If reunification services are not ordered pursuant to
26 paragraph (1) of subdivision (b) and the whereabouts of a parent
27 become known within six months of the out-of-home placement
28 of the child, the court shall order the social worker to provide
29 family reunification services in accordance with this subdivision.

30 (e) (1) If the parent or guardian is incarcerated or
31 institutionalized, the court shall order reasonable services unless
32 the court determines, by clear and convincing evidence, those
33 services would be detrimental to the child. In determining
34 detriment, the court shall consider the age of the child, the degree
35 of parent-child bonding, the length of the sentence, the length and
36 nature of the treatment, the nature of the crime or illness, the degree
37 of detriment to the child if services are not offered and, for children
38 10 years of age or older, the child's attitude toward the
39 implementation of family reunification services, the likelihood of
40 the parent's discharge from incarceration or institutionalization

1 within the reunification time limitations described in subdivision
2 (a), and any other appropriate factors. In determining the content
3 of reasonable services, the court shall consider the particular
4 barriers to an incarcerated or otherwise institutionalized parent's
5 access to those court-mandated services and ability to maintain
6 contact with his or her child, and shall document this information
7 in the child's case plan. Reunification services are subject to the
8 applicable time limitations imposed in subdivision (a). Services
9 may include, but shall not be limited to, all of the following:

10 (A) Maintaining contact between the parent and child through
11 collect telephone calls.

12 (B) Transportation services, where appropriate.

13 (C) Visitation services, where appropriate.

14 (D) Reasonable services to extended family members or foster
15 parents providing care for the child if the services are not
16 detrimental to the child.

17 An incarcerated parent may be required to attend counseling,
18 parenting classes, or vocational training programs as part of the
19 reunification service plan if actual access to these services is
20 provided. The social worker shall document in the child's case
21 plan the particular barriers to an incarcerated or institutionalized
22 parent's access to those court-mandated services and ability to
23 maintain contact with his or her child.

24 (2) The presiding judge of the juvenile court of each county
25 may convene representatives of the county welfare department,
26 the sheriff's department, and other appropriate entities for the
27 purpose of developing and entering into protocols for ensuring the
28 notification, transportation, and presence of an incarcerated or
29 institutionalized parent at all court hearings involving proceedings
30 affecting the child pursuant to Section 2625 of the Penal Code.
31 The county welfare department shall utilize the prisoner locator
32 system developed by the Department of Corrections and
33 Rehabilitation to facilitate timely and effective notice of hearings
34 for incarcerated parents.

35 (3) Notwithstanding any other provision of law, if the
36 incarcerated parent is a woman seeking to participate in the
37 community treatment program operated by the Department of
38 Corrections and Rehabilitation pursuant to Chapter 4.8
39 (commencing with Section 1174) of Title 7 of Part 2 of, Chapter
40 4 (commencing with Section 3410) of Title 2 of Part 3 of, the Penal

1 Code, the court shall determine whether the parent's participation
2 in a program is in the child's best interest and whether it is suitable
3 to meet the needs of the parent and child.

4 (f) If the court, pursuant to paragraph (2), (3), (4), (5), (6), (7),
5 (8), (9), (10), (11), (12), (13), (14), or (15) of subdivision (b) or
6 paragraph (1) of subdivision (e), does not order reunification
7 services, it shall, at the dispositional hearing, that shall include a
8 permanency hearing, determine if a hearing under Section 366.26
9 shall be set in order to determine whether adoption, guardianship,
10 or long-term foster care, or in the case of an Indian child, in
11 consultation with the child's tribe, tribal customary adoption, is
12 the most appropriate plan for the child, and shall consider in-state
13 and out-of-state placement options. If the court so determines, it
14 shall conduct the hearing pursuant to Section 366.26 within 120
15 days after the dispositional hearing. However, the court shall not
16 schedule a hearing so long as the other parent is being provided
17 reunification services pursuant to subdivision (a). The court may
18 continue to permit the parent to visit the child unless it finds that
19 visitation would be detrimental to the child.

20 (g) (1) Whenever a court orders that a hearing shall be held
21 pursuant to Section 366.26, including, when, in consultation with
22 the child's tribe, tribal customary adoption is recommended, it
23 shall direct the agency supervising the child and the licensed county
24 adoption agency, or the State Department of Social Services when
25 it is acting as an adoption agency in counties that are not served
26 by a county adoption agency, to prepare an assessment that shall
27 include:

28 (A) Current search efforts for an absent parent or parents and
29 notification of a noncustodial parent in the manner provided for
30 in Section 291.

31 (B) A review of the amount of and nature of any contact between
32 the child and his or her parents and other members of his or her
33 extended family since the time of placement. Although the
34 extended family of each child shall be reviewed on a case-by-case
35 basis, "extended family" for the purpose of this subparagraph shall
36 include, but not be limited to, the child's siblings, grandparents,
37 aunts, and uncles.

38 (C) An evaluation of the child's medical, developmental,
39 scholastic, mental, and emotional status.

(D) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, including a prospective tribal customary adoptive parent, particularly the caretaker, to include a social history, including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the child's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed guardian is a relative of the minor, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3 and in Section 361.4. As used in this subparagraph, "relative" means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of those persons even if the marriage was terminated by death or dissolution.

(E) The relationship of the child to any identified prospective adoptive parent or guardian, including a prospective tribal customary parent, the duration and character of the relationship, the degree of attachment of the child to the prospective relative guardian or adoptive parent, the relative's or adoptive parent's strong commitment to caring permanently for the child, the motivation for seeking adoption or guardianship, a statement from the child concerning placement and the adoption or guardianship, and whether the child over 12 years of age has been consulted about the proposed relative guardianship arrangements, unless the child's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

(F) An analysis of the likelihood that the child will be adopted if parental rights are terminated.

(G) In the case of an Indian child, in addition to subparagraphs (A) to (F), inclusive, an assessment of the likelihood that the child will be adopted, when, in consultation with the child's tribe, a customary tribal adoption, as defined in Section 366.24, is recommended. If tribal customary adoption is recommended, the assessment shall include an analysis of both of the following:

1 (i) Whether tribal customary adoption would or would not be
2 detrimental to the Indian child and the reasons for reaching that
3 conclusion.

4 (ii) Whether the Indian child cannot or should not be returned
5 to the home of the Indian parent or Indian custodian and the reasons
6 for reaching that conclusion.

7 (2) (A) A relative caregiver's preference for legal guardianship
8 over adoption, if it is due to circumstances that do not include an
9 unwillingness to accept legal or financial responsibility for the
10 child, shall not constitute the sole basis for recommending removal
11 of the child from the relative caregiver for purposes of adoptive
12 placement.

13 (B) A relative caregiver shall be given information regarding
14 the permanency options of guardianship and adoption, including
15 the long-term benefits and consequences of each option, prior to
16 establishing legal guardianship or pursuing adoption.

17 (h) If, at any hearing held pursuant to Section 366.26, a
18 guardianship is established for the minor with an approved relative
19 caregiver and juvenile court dependency is subsequently dismissed,
20 the minor shall be eligible for aid under the Kin-GAP Program as
21 provided for in Article 4.5 (commencing with Section 11360) or
22 Article 4.7 (commencing with Section 11385) of Chapter 2, as
23 applicable.

24 (i) In determining whether reunification services will benefit
25 the child pursuant to paragraph (6) or (7) of subdivision (b), the
26 court shall consider any information it deems relevant, including
27 the following factors:

28 (1) The specific act or omission comprising the severe sexual
29 abuse or the severe physical harm inflicted on the child or the
30 child's sibling or half sibling.

31 (2) The circumstances under which the abuse or harm was
32 inflicted on the child or the child's sibling or half sibling.

33 (3) The severity of the emotional trauma suffered by the child
34 or the child's sibling or half sibling.

35 (4) Any history of abuse of other children by the offending
36 parent or guardian.

37 (5) The likelihood that the child may be safely returned to the
38 care of the offending parent or guardian within 12 months with no
39 continuing supervision.

1 (6) Whether or not the child desires to be reunified with the
2 offending parent or guardian.

3 (j) The court shall read into the record the basis for a finding of
4 severe sexual abuse or the infliction of severe physical harm under
5 paragraph (6) of subdivision (b), and shall also specify the factual
6 findings used to determine that the provision of reunification
7 services to the offending parent or guardian would not benefit the
8 child.

9 (k) This section shall remain in effect only until January 1, 2014,
10 and as of that date is repealed, unless a later enacted statute, that
11 is enacted before January 1, 2014, deletes or extends that date.

12 SEC. 14. Section 361.5 of the Welfare and Institutions Code,
13 as added by Section 7 of Chapter 287 of the Statutes of 2009, is
14 amended to read:

15 361.5. (a) Except as provided in subdivision (b), or when the
16 parent has voluntarily relinquished the child and the relinquishment
17 has been filed with the State Department of Social Services, or
18 upon the establishment of an order of guardianship pursuant to
19 Section 360, whenever a child is removed from a parent's or
20 guardian's custody, the juvenile court shall order the social worker
21 to provide child welfare services to the child and the child's mother
22 and statutorily presumed father or guardians. Upon a finding and
23 declaration of paternity by the juvenile court or proof of a prior
24 declaration of paternity by any court of competent jurisdiction, the
25 juvenile court may order services for the child and the biological
26 father, if the court determines that the services will benefit the
27 child.

28 (1) Family reunification services, when provided, shall be
29 provided as follows:

30 (A) Except as otherwise provided in subparagraph (C), for a
31 child who, on the date of initial removal from the physical custody
32 of his or her parent or guardian, was three years of age or older,
33 court-ordered services shall be provided beginning with the
34 dispositional hearing and ending 12 months after the date the child
35 entered foster care as defined in Section 361.49, unless the child
36 is returned to the home of the parent or guardian.

37 (B) For a child who, on the date of initial removal from the
38 physical custody of his or her parent or guardian, was under three
39 years of age, court-ordered services shall be provided for a period
40 of six months from the dispositional hearing as provided in

1 subdivision (e) of Section 366.21, but no longer than 12 months
2 from the date the child entered foster care as defined in Section
3 361.49 unless the child is returned to the home of the parent or
4 guardian.

5 (C) For the purpose of placing and maintaining a sibling group
6 together in a permanent home should reunification efforts fail, for
7 a child in a sibling group whose members were removed from
8 parental custody at the same time, and in which one member of
9 the sibling group was under three years of age on the date of initial
10 removal from the physical custody of his or her parent or guardian,
11 court-ordered services for some or all of the sibling group may be
12 limited as set forth in subparagraph (B). For the purposes of this
13 paragraph, “a sibling group” shall mean two or more children who
14 are related to each other as full or half siblings.

15 (2) Any motion to terminate court-ordered reunification services
16 prior to the hearing set pursuant to subdivision (f) of Section 366.21
17 for a child described by subparagraph (A) of paragraph (1), or
18 prior to the hearing set pursuant to subdivision (e) of Section
19 366.21 for a child described by subparagraph (B) or (C) of
20 paragraph (1), shall be made pursuant to the requirements set forth
21 in subdivision (c) of Section 388. A motion to terminate
22 court-ordered reunification services shall not be required at the
23 hearing set pursuant to subdivision (e) of Section 366.21 if the
24 court finds by clear and convincing evidence one of the following:

25 (A) That the child was removed initially under subdivision (g)
26 of Section 300 and the whereabouts of the parent are still unknown.

27 (B) That the parent has failed to contact and visit the child.

28 (C) That the parent has been convicted of a felony indicating
29 parental unfitness.

30 (3) Notwithstanding subparagraphs (A), (B), and (C) of
31 paragraph (1), court-ordered services may be extended up to a
32 maximum time period not to exceed 18 months after the date the
33 child was originally removed from physical custody of his or her
34 parent or guardian if it can be shown, at the hearing held pursuant
35 to subdivision (f) of Section 366.21, that the permanent plan for
36 the child is that he or she will be returned and safely maintained
37 in the home within the extended time period. The court shall extend
38 the time period only if it finds that there is a substantial probability
39 that the child will be returned to the physical custody of his or her
40 parent or guardian within the extended time period or that

1 reasonable services have not been provided to the parent or
2 guardian. In determining whether court-ordered services may be
3 extended, the court shall consider the special circumstances of an
4 incarcerated or institutionalized parent or parents, or parent or
5 parents court-ordered to a residential substance abuse treatment
6 program, including, but not limited to, barriers to the parent's or
7 guardian's access to services and ability to maintain contact with
8 his or her child. The court shall also consider, among other factors,
9 good faith efforts that the parent or guardian has made to maintain
10 contact with the child. If the court extends the time period, the
11 court shall specify the factual basis for its conclusion that there is
12 a substantial probability that the child will be returned to the
13 physical custody of his or her parent or guardian within the
14 extended time period. The court also shall make findings pursuant
15 to subdivision (a) of Section 366 and subdivision (e) of Section
16 358.1.

17 When counseling or other treatment services are ordered, the
18 parent or guardian shall be ordered to participate in those services,
19 unless the parent's or guardian's participation is deemed by the
20 court to be inappropriate or potentially detrimental to the child, or
21 unless a parent or guardian is incarcerated and the corrections
22 facility in which he or she is incarcerated does not provide access
23 to the treatment services ordered by the court. Physical custody of
24 the child by the parents or guardians during the applicable time
25 period under subparagraph (A), (B), or (C) of paragraph (1) shall
26 not serve to interrupt the running of the period. If at the end of the
27 applicable time period, a child cannot be safely returned to the
28 care and custody of a parent or guardian without court supervision,
29 but the child clearly desires contact with the parent or guardian,
30 the court shall take the child's desire into account in devising a
31 permanency plan.

32 In cases where the child was under three years of age on the date
33 of the initial removal from the physical custody of his or her parent
34 or guardian or is a member of a sibling group as described in
35 subparagraph (C) of paragraph (1), the court shall inform the parent
36 or guardian that the failure of the parent or guardian to participate
37 regularly in any court-ordered treatment programs or to cooperate
38 or avail himself or herself of services provided as part of the child
39 welfare services case plan may result in a termination of efforts
40 to reunify the family after six months. The court shall inform the

1 parent or guardian of the factors used in subdivision (e) of Section
2 366.21 to determine whether to limit services to six months for
3 some or all members of a sibling group as described in
4 subparagraph (C) of paragraph (1).

5 (4) Notwithstanding paragraph (3), court-ordered services may
6 be extended up to a maximum time period not to exceed 24 months
7 after the date the child was originally removed from physical
8 custody of his or her parent or guardian if it is shown, at the hearing
9 held pursuant to subdivision (b) of Section 366.22, that the
10 permanent plan for the child is that he or she will be returned and
11 safely maintained in the home within the extended time period.
12 The court shall extend the time period only if it finds that it is in
13 the child's best interest to have the time period extended and that
14 there is a substantial probability that the child will be returned to
15 the physical custody of his or her parent or guardian who is
16 described in subdivision (b) of Section 366.22 within the extended
17 time period, or that reasonable services have not been provided to
18 the parent or guardian. If the court extends the time period, the
19 court shall specify the factual basis for its conclusion that there is
20 a substantial probability that the child will be returned to the
21 physical custody of his or her parent or guardian within the
22 extended time period. The court also shall make findings pursuant
23 to subdivision (a) of Section 366 and subdivision (e) of Section
24 358.1.

25 When counseling or other treatment services are ordered, the
26 parent or guardian shall be ordered to participate in those services,
27 in order for substantial probability to be found. Physical custody
28 of the child by the parents or guardians during the applicable time
29 period under subparagraph (A), (B), or (C) of paragraph (1) shall
30 not serve to interrupt the running of the period. If at the end of the
31 applicable time period, the child cannot be safely returned to the
32 care and custody of a parent or guardian without court supervision,
33 but the child clearly desires contact with the parent or guardian,
34 the court shall take the child's desire into account in devising a
35 permanency plan.

36 Except in cases where, pursuant to subdivision (b), the court
37 does not order reunification services, the court shall inform the
38 parent or parents of Section 366.26 and shall specify that the
39 parent's or parents' parental rights may be terminated.

(b) Reunification services need not be provided to a parent or guardian described in this subdivision when the court finds, by clear and convincing evidence, any of the following:

(1) That the whereabouts of the parent or guardian is unknown. A finding pursuant to this paragraph shall be supported by an affidavit or by proof that a reasonably diligent search has failed to locate the parent or guardian. The posting or publication of notices is not required in that search.

(2) That the parent or guardian is suffering from a mental disability that is described in Chapter 2 (commencing with Section 7820) of Part 4 of Division 12 of the Family Code and that renders him or her incapable of utilizing those services.

(3) That the child or a sibling of the child has been previously adjudicated a dependent pursuant to any subdivision of Section 300 as a result of physical or sexual abuse, that following that adjudication the child had been removed from the custody of his or her parent or guardian pursuant to Section 361, that the child has been returned to the custody of the parent or guardian from whom the child had been taken originally, and that the child is being removed pursuant to Section 361, due to additional physical or sexual abuse.

(4) That the parent or guardian of the child has caused the death of another child through abuse or neglect.

(5) That the child was brought within the jurisdiction of the court under subdivision (e) of Section 300 because of the conduct of that parent or guardian.

(6) That the child has been adjudicated a dependent pursuant to any subdivision of Section 300 as a result of severe sexual abuse or the infliction of severe physical harm to the child, a sibling, or a half sibling by a parent or guardian, as defined in this subdivision, and the court makes a factual finding that it would not benefit the child to pursue reunification services with the offending parent or guardian.

A finding of severe sexual abuse, for the purposes of this subdivision, may be based on, but is not limited to, sexual intercourse, or stimulation involving genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between the parent or guardian and the child or a sibling or half sibling of the child, or between the child or a sibling or half sibling of the child and another person or animal with the actual or implied consent of the

1 parent or guardian; or the penetration or manipulation of the
2 child's, sibling's, or half sibling's genital organs or rectum by any
3 animate or inanimate object for the sexual gratification of the
4 parent or guardian, or for the sexual gratification of another person
5 with the actual or implied consent of the parent or guardian.

6 A finding of the infliction of severe physical harm, for the
7 purposes of this subdivision, may be based on, but is not limited
8 to, deliberate and serious injury inflicted to or on a child's body
9 or the body of a sibling or half sibling of the child by an act or
10 omission of the parent or guardian, or of another individual or
11 animal with the consent of the parent or guardian; deliberate and
12 torturous confinement of the child, sibling, or half sibling in a
13 closed space; or any other torturous act or omission that would be
14 reasonably understood to cause serious emotional damage.

15 (7) That the parent is not receiving reunification services for a
16 sibling or a half sibling of the child pursuant to paragraph (3), (5),
17 or (6).

18 (8) That the child was conceived by means of the commission
19 of an offense listed in Section 288 or 288.5 of the Penal Code, or
20 by an act committed outside of this state that, if committed in this
21 state, would constitute one of those offenses. This paragraph only
22 applies to the parent who committed the offense or act.

23 (9) That the child has been found to be a child described in
24 subdivision (g) of Section 300, that the parent or guardian of the
25 child willfully abandoned the child, and the court finds that the
26 abandonment itself constituted a serious danger to the child; or
27 that the parent or other person having custody of the child
28 voluntarily surrendered physical custody of the child pursuant to
29 Section 1255.7 of the Health and Safety Code. For the purposes
30 of this paragraph, "serious danger" means that without the
31 intervention of another person or agency, the child would have
32 sustained severe or permanent disability, injury, illness, or death.
33 For purposes of this paragraph, "willful abandonment" shall not
34 be construed as actions taken in good faith by the parent without
35 the intent of placing the child in serious danger.

36 (10) That the court ordered termination of reunification services
37 for any siblings or half siblings of the child because the parent or
38 guardian failed to reunify with the sibling or half sibling after the
39 sibling or half sibling had been removed from that parent or
40 guardian pursuant to Section 361 and that parent or guardian is

1 the same parent or guardian described in subdivision (a) and that,
2 according to the findings of the court, this parent or guardian has
3 not subsequently made a reasonable effort to treat the problems
4 that led to removal of the sibling or half sibling of that child from
5 that parent or guardian.

6 (11) That the parental rights of a parent over any sibling or half
7 sibling of the child had been permanently severed, and this parent
8 is the same parent described in subdivision (a), and that, according
9 to the findings of the court, this parent has not subsequently made
10 a reasonable effort to treat the problems that led to removal of the
11 sibling or half sibling of that child from the parent.

12 (12) That the parent or guardian of the child has been convicted
13 of a violent felony, as defined in subdivision (c) of Section 667.5
14 of the Penal Code.

15 (13) That the parent or guardian of the child has a history of
16 extensive, abusive, and chronic use of drugs or alcohol and has
17 resisted prior court-ordered treatment for this problem during a
18 three-year period immediately prior to the filing of the petition
19 that brought that child to the court's attention, or has failed or
20 refused to comply with a program of drug or alcohol treatment
21 described in the case plan required by Section 358.1 on at least
22 two prior occasions, even though the programs identified were
23 available and accessible.

24 (14) That the parent or guardian of the child has advised the
25 court that he or she is not interested in receiving family
26 maintenance or family reunification services or having the child
27 returned to or placed in his or her custody and does not wish to
28 receive family maintenance or reunification services.

29 The parent or guardian shall be represented by counsel and shall
30 execute a waiver of services form to be adopted by the Judicial
31 Council. The court shall advise the parent or guardian of any right
32 to services and of the possible consequences of a waiver of
33 services, including the termination of parental rights and placement
34 of the child for adoption. The court shall not accept the waiver of
35 services unless it states on the record its finding that the parent or
36 guardian has knowingly and intelligently waived the right to
37 services.

38 (15) That the parent or guardian has on one or more occasions
39 willfully abducted the child or child's sibling or half sibling from
40 his or her placement and refused to disclose the child's or child's

1 sibling's or half sibling's whereabouts, refused to return physical
2 custody of the child or child's sibling or half sibling to his or her
3 placement, or refused to return physical custody of the child or
4 child's sibling or half sibling to the social worker.

5 (c) In deciding whether to order reunification in any case in
6 which this section applies, the court shall hold a dispositional
7 hearing. The social worker shall prepare a report that discusses
8 whether reunification services shall be provided. When it is alleged,
9 pursuant to paragraph (2) of subdivision (b), that the parent is
10 incapable of utilizing services due to mental disability, the court
11 shall order reunification services unless competent evidence from
12 mental health professionals establishes that, even with the provision
13 of services, the parent is unlikely to be capable of adequately caring
14 for the child within the time limits specified in subdivision (a).

15 The court shall not order reunification for a parent or guardian
16 described in paragraph (3), (4), (6), (7), (8), (9), (10), (11), (12),
17 (13), (14), or (15) of subdivision (b) unless the court finds, by clear
18 and convincing evidence, that reunification is in the best interest
19 of the child.

20 In addition, the court shall not order reunification in any situation
21 described in paragraph (5) of subdivision (b) unless it finds that,
22 based on competent testimony, those services are likely to prevent
23 reabuse or continued neglect of the child or that failure to try
24 reunification will be detrimental to the child because the child is
25 closely and positively attached to that parent. The social worker
26 shall investigate the circumstances leading to the removal of the
27 child and advise the court whether there are circumstances that
28 indicate that reunification is likely to be successful or unsuccessful
29 and whether failure to order reunification is likely to be detrimental
30 to the child.

31 The failure of the parent to respond to previous services, the fact
32 that the child was abused while the parent was under the influence
33 of drugs or alcohol, a past history of violent behavior, or testimony
34 by a competent professional that the parent's behavior is unlikely
35 to be changed by services are among the factors indicating that
36 reunification services are unlikely to be successful. The fact that
37 a parent or guardian is no longer living with an individual who
38 severely abused the child may be considered in deciding that
39 reunification services are likely to be successful, provided that the

1 court shall consider any pattern of behavior on the part of the parent
2 that has exposed the child to repeated abuse.

3 (d) If reunification services are not ordered pursuant to
4 paragraph (1) of subdivision (b) and the whereabouts of a parent
5 become known within six months of the out-of-home placement
6 of the child, the court shall order the social worker to provide
7 family reunification services in accordance with this subdivision.

8 (e) (1) If the parent or guardian is incarcerated or
9 institutionalized, the court shall order reasonable services unless
10 the court determines, by clear and convincing evidence, those
11 services would be detrimental to the child. In determining
12 detriment, the court shall consider the age of the child, the degree
13 of parent-child bonding, the length of the sentence, the length and
14 nature of the treatment, the nature of the crime or illness, the degree
15 of detriment to the child if services are not offered and, for children
16 10 years of age or older, the child's attitude toward the
17 implementation of family reunification services, the likelihood of
18 the parent's discharge from incarceration or institutionalization
19 within the reunification time limitations described in subdivision
20 (a), and any other appropriate factors. In determining the content
21 of reasonable services, the court shall consider the particular
22 barriers to an incarcerated or otherwise institutionalized parent's
23 access to those court-mandated services and ability to maintain
24 contact with his or her child, and shall document this information
25 in the child's case plan. Reunification services are subject to the
26 applicable time limitations imposed in subdivision (a). Services
27 may include, but shall not be limited to, all of the following:

28 (A) Maintaining contact between the parent and child through
29 collect telephone calls.

30 (B) Transportation services, where appropriate.

31 (C) Visitation services, where appropriate.

32 (D) Reasonable services to extended family members or foster
33 parents providing care for the child if the services are not
34 detrimental to the child.

35 An incarcerated parent may be required to attend counseling,
36 parenting classes, or vocational training programs as part of the
37 reunification service plan if actual access to these services is
38 provided. The social worker shall document in the child's case
39 plan the particular barriers to an incarcerated or institutionalized

1 parent's access to those court-mandated services and ability to
2 maintain contact with his or her child.

3 (2) The presiding judge of the juvenile court of each county
4 may convene representatives of the county welfare department,
5 the sheriff's department, and other appropriate entities for the
6 purpose of developing and entering into protocols for ensuring the
7 notification, transportation, and presence of an incarcerated or
8 institutionalized parent at all court hearings involving proceedings
9 affecting the child pursuant to Section 2625 of the Penal Code.
10 The county welfare department shall utilize the prisoner locator
11 system developed by the Department of Corrections and
12 Rehabilitation to facilitate timely and effective notice of hearings
13 for incarcerated parents.

14 (3) Notwithstanding any other provision of law, if the
15 incarcerated parent is a woman seeking to participate in the
16 community treatment program operated by the Department of
17 Corrections and Rehabilitation pursuant to Chapter 4.8
18 (commencing with Section 1174) of Title 7 of Part 2 of, Chapter
19 4 (commencing with Section 3410) of Title 2 of Part 3 of, the Penal
20 Code, the court shall determine whether the parent's participation
21 in a program is in the child's best interest and whether it is suitable
22 to meet the needs of the parent and child.

23 (f) If the court, pursuant to paragraph (2), (3), (4), (5), (6), (7),
24 (8), (9), (10), (11), (12), (13), (14), or (15) of subdivision (b) or
25 paragraph (1) of subdivision (e), does not order reunification
26 services, it shall, at the dispositional hearing, that shall include a
27 permanency hearing, determine if a hearing under Section 366.26
28 shall be set in order to determine whether adoption, guardianship,
29 or long-term foster care is the most appropriate plan for the child,
30 and shall consider in-state and out-of-state placement options. If
31 the court so determines, it shall conduct the hearing pursuant to
32 Section 366.26 within 120 days after the dispositional hearing.
33 However, the court shall not schedule a hearing so long as the
34 other parent is being provided reunification services pursuant to
35 subdivision (a). The court may continue to permit the parent to
36 visit the child unless it finds that visitation would be detrimental
37 to the child.

38 (g) (1) Whenever a court orders that a hearing shall be held
39 pursuant to Section 366.26, it shall direct the agency supervising
40 the child and the licensed county adoption agency, or the State

1 Department of Social Services when it is acting as an adoption
2 agency in counties that are not served by a county adoption agency,
3 to prepare an assessment that shall include:

4 (A) Current search efforts for an absent parent or parents and
5 notification of a noncustodial parent in the manner provided for
6 in Section 291.

7 (B) A review of the amount of and nature of any contact between
8 the child and his or her parents and other members of his or her
9 extended family since the time of placement. Although the
10 extended family of each child shall be reviewed on a case-by-case
11 basis, “extended family” for the purpose of this subparagraph shall
12 include, but not be limited to, the child’s siblings, grandparents,
13 aunts, and uncles.

14 (C) An evaluation of the child’s medical, developmental,
15 scholastic, mental, and emotional status.

16 (D) A preliminary assessment of the eligibility and commitment
17 of any identified prospective adoptive parent or guardian,
18 particularly the caretaker, to include a social history, including
19 screening for criminal records and prior referrals for child abuse
20 or neglect, the capability to meet the child’s needs, and the
21 understanding of the legal and financial rights and responsibilities
22 of adoption and guardianship. If a proposed guardian is a relative
23 of the minor, the assessment shall also consider, but need not be
24 limited to, all of the factors specified in subdivision (a) of Section
25 361.3 and in Section 361.4. As used in this subparagraph, “relative”
26 means an adult who is related to the minor by blood, adoption, or
27 affinity within the fifth degree of kinship, including stepparents,
28 stepsiblings, and all relatives whose status is preceded by the words
29 “great,” “great-great,” or “grand,” or the spouse of any of those
30 persons even if the marriage was terminated by death or
31 dissolution.

32 (E) The relationship of the child to any identified prospective
33 adoptive parent or guardian, the duration and character of the
34 relationship, the degree of attachment of the child to the prospective
35 relative guardian or adoptive parent, the relative’s or adoptive
36 parent’s strong commitment to caring permanently for the child,
37 the motivation for seeking adoption or guardianship, a statement
38 from the child concerning placement and the adoption or
39 guardianship, and whether the child over 12 years of age has been
40 consulted about the proposed relative guardianship arrangements

1 unless the child's age or physical, emotional, or other condition
2 precludes his or her meaningful response, and if so, a description
3 of the condition.

4 (F) An analysis of the likelihood that the child will be adopted
5 if parental rights are terminated.

6 (2) (A) A relative caregiver's preference for legal guardianship
7 over adoption, if it is due to circumstances that do not include an
8 unwillingness to accept legal or financial responsibility for the
9 child, shall not constitute the sole basis for recommending removal
10 of the child from the relative caregiver for purposes of adoptive
11 placement.

12 (B) A relative caregiver shall be given information regarding
13 the permanency options of guardianship and adoption, including
14 the long-term benefits and consequences of each option, prior to
15 establishing legal guardianship or pursuing adoption.

16 (h) If, at any hearing held pursuant to Section 366.26, a
17 guardianship is established for the minor with an approved relative
18 caregiver and juvenile court dependency is subsequently dismissed,
19 the minor shall be eligible for aid under the Kin-GAP Program as
20 provided for in Article 4.5 (commencing with Section 11360) or
21 Article 4.7 (commencing with Section 11385) of Chapter 2, as
22 applicable.

23 (i) In determining whether reunification services will benefit
24 the child pursuant to paragraph (6) or (7) of subdivision (b), the
25 court shall consider any information it deems relevant, including
26 the following factors:

27 (1) The specific act or omission comprising the severe sexual
28 abuse or the severe physical harm inflicted on the child or the
29 child's sibling or half sibling.

30 (2) The circumstances under which the abuse or harm was
31 inflicted on the child or the child's sibling or half sibling.

32 (3) The severity of the emotional trauma suffered by the child
33 or the child's sibling or half sibling.

34 (4) Any history of abuse of other children by the offending
35 parent or guardian.

36 (5) The likelihood that the child may be safely returned to the
37 care of the offending parent or guardian within 12 months with no
38 continuing supervision.

39 (6) Whether or not the child desires to be reunified with the
40 offending parent or guardian.

(j) The court shall read into the record the basis for a finding of severe sexual abuse or the infliction of severe physical harm under paragraph (6) of subdivision (b), and shall also specify the factual findings used to determine that the provision of reunification services to the offending parent or guardian would not benefit the child.

(k) This section shall become operative on January 1, 2014.

SEC. 15. Section 366 of the Welfare and Institutions Code is amended to read:

366. (a) (1) The status of every dependent child in foster care shall be reviewed periodically as determined by the court but no less frequently than once every six months, as calculated from the date of the original dispositional hearing, until the hearing described in Section 366.26 is completed. The court shall consider the safety of the child and shall determine all of the following:

(A) The continuing necessity for and appropriateness of the placement.

(B) The extent of the agency's compliance with the case plan in making reasonable efforts, or, in the case of an Indian child, active efforts as described in Section 361.7, to return the child to a safe home and to complete any steps necessary to finalize the permanent placement of the child, including efforts to maintain relationships between a child who is 10 years of age or older and who has been in an out-of-home placement for six months or longer, and individuals other than the child's siblings who are important to the child, consistent with the child's best interests.

(C) Whether there should be any limitation on the right of the parent or guardian to make educational decisions for the child. That limitation shall be specifically addressed in the court order and may not exceed those necessary to protect the child. Whenever the court specifically limits the right of the parent or guardian to make educational decisions for the child, the court shall at the same time appoint a responsible adult to make educational decisions for the child pursuant to Section 361.

(D) (i) Whether the child has other siblings under the court's jurisdiction, and, if any siblings exist, all of the following:

(I) The nature of the relationship between the child and his or her siblings.

(II) The appropriateness of developing or maintaining the sibling relationships pursuant to Section 16002.

1 (III) If the siblings are not placed together in the same home,
2 why the siblings are not placed together and what efforts are being
3 made to place the siblings together, or why those efforts are not
4 appropriate.

5 (IV) If the siblings are not placed together, the frequency and
6 nature of the visits between siblings.

7 (V) The impact of the sibling relationships on the child's
8 placement and planning for legal permanence.

9 (VI) The continuing need to suspend sibling interaction, if
10 applicable, pursuant to subdivision (c) of Section 16002.

11 (ii) The factors the court may consider in making a determination
12 regarding the nature of the child's sibling relationships may
13 include, but are not limited to, whether the siblings were raised
14 together in the same home, whether the siblings have shared
15 significant common experiences or have existing close and strong
16 bonds, whether either sibling expresses a desire to visit or live with
17 his or her sibling, as applicable, and whether ongoing contact is
18 in the child's best emotional interests.

19 (E) The extent of progress that has been made toward alleviating
20 or mitigating the causes necessitating placement in foster care.

21 (F) On and after January 1, 2012, if the review hearing is the
22 last review hearing to be held before the child attains 18 years of
23 age, the court shall ensure that the child's transitional independent
24 living case plan includes a plan for the child to meet one or more
25 of the criteria set forth in Section 11403, so that the child can
26 remain a nonminor dependent, and that the child has been informed
27 of his or her right to seek the termination of dependency
28 jurisdiction pursuant to Section 391.

29 (2) The court shall project a likely date by which the child may
30 be returned to and safely maintained in the home or placed for
31 adoption, legal guardianship, or in another planned permanent
32 living arrangement.

33 (b) Subsequent to the hearing, periodic reviews of each child
34 in foster care shall be conducted pursuant to the requirements of
35 Sections 366.3 and 16503.

36 (c) If the child has been placed out of state, each review
37 described in subdivision (a) and any reviews conducted pursuant
38 to Sections 366.3 and 16503 shall also address whether the
39 out-of-state placement continues to be the most appropriate
40 placement selection and in the best interests of the child.

1 (d) A child may not be placed in an out-of-state group home,
2 or remain in an out-of-state group home, unless the group home
3 is in compliance with Section 7911.1 of the Family Code.

4 (e) The implementation and operation of the amendments to
5 subparagraph (B) of paragraph (1) of subdivision (a) enacted at
6 the 2005–06 Regular Session shall be subject to appropriation
7 through the budget process and by phase, as provided in Section
8 366.35.

9 (f) On and after January 1, 2012, the status of every nonminor
10 dependent, as defined in subdivision (v) of Section 11400, shall
11 be reviewed periodically as determined by the court, but no less
12 frequently than once every six months, as calculated from the date
13 of the original dispositional hearing until dependency jurisdiction
14 is terminated pursuant to Section 391. The review shall include
15 all of the issues set forth in subdivision (a), except subparagraph
16 (C) of paragraph (1) of subdivision (a), and shall be conducted in
17 a manner that respects the nonminor dependent's status as a legal
18 adult, be focused on the goals and services described in the
19 nonminor dependent's transitional independent living case plan,
20 including efforts made to achieve permanence, including
21 maintaining or obtaining permanent connections with caring and
22 committed adults, and attended as appropriate by additional
23 participants invited by the nonminor dependent. An appropriate
24 placement for a nonminor dependent may include a supervised
25 independent living setting, as described in Section 11400.

26 SEC. 16. Section 366.21 of the Welfare and Institutions Code,
27 as amended by Section 8 of Chapter 287 of the Statutes of 2009,
28 is amended to read:

29 366.21. (a) Every hearing conducted by the juvenile court
30 reviewing the status of a dependent child shall be placed on the
31 appearance calendar. The court shall advise all persons present at
32 the hearing of the date of the future hearing and of their right to
33 be present and represented by counsel.

34 (b) Except as provided in Sections 294 and 295, notice of the
35 hearing shall be provided pursuant to Section 293.

36 (c) At least 10 calendar days prior to the hearing, the social
37 worker shall file a supplemental report with the court regarding
38 the services provided or offered to the parent or legal guardian to
39 enable him or her to assume custody and the efforts made to
40 achieve legal permanence for the child if efforts to reunify fail,

1 including, but not limited to, efforts to maintain relationships
2 between a child who is 10 years of age or older and has been in
3 out-of-home placement for six months or longer and individuals
4 who are important to the child, consistent with the child's best
5 interests; the progress made; and, where relevant, the prognosis
6 for return of the child to the physical custody of his or her parent
7 or legal guardian; and shall make his or her recommendation for
8 disposition. If the child is a member of a sibling group described
9 in subparagraph (C) of paragraph (1) of subdivision (a) of Section
10 361.5, the report and recommendation may also take into account
11 those factors described in subdivision (e) relating to the child's
12 sibling group. If the recommendation is not to return the child to
13 a parent or legal guardian, the report shall specify why the return
14 of the child would be detrimental to the child. The social worker
15 shall provide the parent or legal guardian, counsel for the child,
16 and any court-appointed child advocate with a copy of the report,
17 including his or her recommendation for disposition, at least 10
18 calendar days prior to the hearing. In the case of a child removed
19 from the physical custody of his or her parent or legal guardian,
20 the social worker shall, at least 10 calendar days prior to the
21 hearing, provide a summary of his or her recommendation for
22 disposition to any foster parents, relative caregivers, and certified
23 foster parents who have been approved for adoption by the State
24 Department of Social Services when it is acting as an adoption
25 agency in counties that are not served by a county adoption agency
26 or by a licensed county adoption agency, community care facility,
27 or foster family agency having the physical custody of the child.
28 The social worker shall include a copy of the Judicial Council
29 Caregiver Information Form (JV-290) with the summary of
30 recommendations to the child's foster parents, relative caregivers,
31 or foster parents approved for adoption, in the caregiver's primary
32 language when available, along with information on how to file
33 the form with the court.

34 (d) Prior to any hearing involving a child in the physical custody
35 of a community care facility or a foster family agency that may
36 result in the return of the child to the physical custody of his or
37 her parent or legal guardian, or in adoption or the creation of a
38 legal guardianship, or in the case of an Indian child, in consultation
39 with the child's tribe, tribal customary adoption, the facility or
40 agency shall file with the court a report, or a Judicial Council

1 Caregiver Information Form (JV-290), containing its
2 recommendation for disposition. Prior to the hearing involving a
3 child in the physical custody of a foster parent, a relative caregiver,
4 or a certified foster parent who has been approved for adoption by
5 the State Department of Social Services when it is acting as an
6 adoption agency or by a licensed adoption agency, the foster parent,
7 relative caregiver, or the certified foster parent who has been
8 approved for adoption by the State Department of Social Services
9 when it is acting as an adoption agency in counties that are not
10 served by a county adoption agency or by a licensed county
11 adoption agency, may file with the court a report containing his
12 or her recommendation for disposition. The court shall consider
13 the report and recommendation filed pursuant to this subdivision
14 prior to determining any disposition.

15 (e) At the review hearing held six months after the initial
16 dispositional hearing, but no later than 12 months after the date
17 the child entered foster care as determined in Section 361.49,
18 whichever occurs earlier, the court shall order the return of the
19 child to the physical custody of his or her parent or legal guardian
20 unless the court finds, by a preponderance of the evidence, that
21 the return of the child to his or her parent or legal guardian would
22 create a substantial risk of detriment to the safety, protection, or
23 physical or emotional well-being of the child. The social worker
24 shall have the burden of establishing that detriment. At the hearing,
25 the court shall consider the criminal history, obtained pursuant to
26 paragraph (1) of subdivision (f) of Section 16504.5, of the parent
27 or legal guardian subsequent to the child's removal to the extent
28 that the criminal record is substantially related to the welfare of
29 the child or the parent's or guardian's ability to exercise custody
30 and control regarding his or her child, provided the parent or legal
31 guardian agreed to submit fingerprint images to obtain criminal
32 history information as part of the case plan. The failure of the
33 parent or legal guardian to participate regularly and make
34 substantive progress in court-ordered treatment programs shall be
35 prima facie evidence that return would be detrimental. In making
36 its determination, the court shall review and consider the social
37 worker's report and recommendations and the report and
38 recommendations of any child advocate appointed pursuant to
39 Section 356.5; and shall consider the efforts or progress, or both,
40 demonstrated by the parent or legal guardian and the extent to

1 which he or she availed himself or herself to services provided,
2 taking into account the particular barriers to an incarcerated or
3 institutionalized parent or legal guardian's access to those
4 court-mandated services and ability to maintain contact with his
5 or her child.

6 Regardless of whether the child is returned to a parent or legal
7 guardian, the court shall specify the factual basis for its conclusion
8 that the return would be detrimental or would not be detrimental.
9 The court also shall make appropriate findings pursuant to
10 subdivision (a) of Section 366; and, where relevant, shall order
11 any additional services reasonably believed to facilitate the return
12 of the child to the custody of his or her parent or legal guardian.
13 The court shall also inform the parent or legal guardian that if the
14 child cannot be returned home by the 12-month permanency
15 hearing, a proceeding pursuant to Section 366.26 may be instituted.
16 This section does not apply in a case where, pursuant to Section
17 361.5, the court has ordered that reunification services shall not
18 be provided.

19 If the child was under three years of age on the date of the initial
20 removal, or is a member of a sibling group described in
21 subparagraph (C) of paragraph (1) of subdivision (a) of Section
22 361.5, and the court finds by clear and convincing evidence that
23 the parent failed to participate regularly and make substantive
24 progress in a court-ordered treatment plan, the court may schedule
25 a hearing pursuant to Section 366.26 within 120 days. If, however,
26 the court finds there is a substantial probability that the child, who
27 was under three years of age on the date of initial removal or is a
28 member of a sibling group described in subparagraph (C) of
29 paragraph (1) of subdivision (a) of Section 361.5, may be returned
30 to his or her parent or legal guardian within six months or that
31 reasonable services have not been provided, the court shall continue
32 the case to the 12-month permanency hearing.

33 For the purpose of placing and maintaining a sibling group
34 together in a permanent home, the court, in making its
35 determination to schedule a hearing pursuant to Section 366.26
36 for some or all members of a sibling group, as described in
37 subparagraph (C) of paragraph (1) of subdivision (a) of Section
38 361.5, shall review and consider the social worker's report and
39 recommendations. Factors the report shall address, and the court
40 shall consider, may include, but need not be limited to, whether

1 the sibling group was removed from parental care as a group, the
2 closeness and strength of the sibling bond, the ages of the siblings,
3 the appropriateness of maintaining the sibling group together, the
4 detriment to the child if sibling ties are not maintained, the
5 likelihood of finding a permanent home for the sibling group,
6 whether the sibling group is currently placed together in a
7 preadoptive home or has a concurrent plan goal of legal
8 permanency in the same home, the wishes of each child whose
9 age and physical and emotional condition permits a meaningful
10 response, and the best interest of each child in the sibling group.
11 The court shall specify the factual basis for its finding that it is in
12 the best interest of each child to schedule a hearing pursuant to
13 Section 366.26 in 120 days for some or all of the members of the
14 sibling group.

15 If the child was removed initially under subdivision (g) of
16 Section 300 and the court finds by clear and convincing evidence
17 that the whereabouts of the parent are still unknown, or the parent
18 has failed to contact and visit the child, the court may schedule a
19 hearing pursuant to Section 366.26 within 120 days. The court
20 shall take into account any particular barriers to a parent's ability
21 to maintain contact with his or her child due to the parent's
22 incarceration or institutionalization. If the court finds by clear and
23 convincing evidence that the parent has been convicted of a felony
24 indicating parental unfitness, the court may schedule a hearing
25 pursuant to Section 366.26 within 120 days.

26 If the child had been placed under court supervision with a
27 previously noncustodial parent pursuant to Section 361.2, the court
28 shall determine whether supervision is still necessary. The court
29 may terminate supervision and transfer permanent custody to that
30 parent, as provided for by paragraph (1) of subdivision (b) of
31 Section 361.2.

32 In all other cases, the court shall direct that any reunification
33 services previously ordered shall continue to be offered to the
34 parent or legal guardian pursuant to the time periods set forth in
35 subdivision (a) of Section 361.5, provided that the court may
36 modify the terms and conditions of those services.

37 If the child is not returned to his or her parent or legal guardian,
38 the court shall determine whether reasonable services that were
39 designed to aid the parent or legal guardian in overcoming the
40 problems that led to the initial removal and the continued custody

1 of the child have been provided or offered to the parent or legal
2 guardian. The court shall order that those services be initiated,
3 continued, or terminated.

4 (f) The permanency hearing shall be held no later than 12
5 months after the date the child entered foster care, as that date is
6 determined pursuant to Section 361.49. At the permanency hearing,
7 the court shall determine the permanent plan for the child, which
8 shall include a determination of whether the child will be returned
9 to the child's home and, if so, when, within the time limits of
10 subdivision (a) of Section 361.5. The court shall order the return
11 of the child to the physical custody of his or her parent or legal
12 guardian unless the court finds, by a preponderance of the evidence,
13 that the return of the child to his or her parent or legal guardian
14 would create a substantial risk of detriment to the safety, protection,
15 or physical or emotional well-being of the child. The social worker
16 shall have the burden of establishing that detriment. At the
17 permanency hearing, the court shall consider the criminal history,
18 obtained pursuant to paragraph (1) of subdivision (f) of Section
19 16504.5, of the parent or legal guardian subsequent to the child's
20 removal to the extent that the criminal record is substantially related
21 to the welfare of the child or the parent or legal guardian's ability
22 to exercise custody and control regarding his or her child, provided
23 that the parent or legal guardian agreed to submit fingerprint images
24 to obtain criminal history information as part of the case plan. The
25 court shall also determine whether reasonable services that were
26 designed to aid the parent or legal guardian to overcome the
27 problems that led to the initial removal and continued custody of
28 the child have been provided or offered to the parent or legal
29 guardian. For each youth 16 years of age and older, the court shall
30 also determine whether services have been made available to assist
31 him or her in making the transition from foster care to independent
32 living. The failure of the parent or legal guardian to participate
33 regularly and make substantive progress in court-ordered treatment
34 programs shall be prima facie evidence that return would be
35 detrimental. In making its determination, the court shall review
36 and consider the social worker's report and recommendations and
37 the report and recommendations of any child advocate appointed
38 pursuant to Section 356.5, shall consider the efforts or progress,
39 or both, demonstrated by the parent or legal guardian and the extent
40 to which he or she availed himself or herself of services provided,

1 taking into account the particular barriers to an incarcerated or
2 institutionalized parent or legal guardian's access to those
3 court-mandated services and ability to maintain contact with his
4 or her child and shall make appropriate findings pursuant to
5 subdivision (a) of Section 366.

6 Regardless of whether the child is returned to his or her parent
7 or legal guardian, the court shall specify the factual basis for its
8 decision. If the child is not returned to a parent or legal guardian,
9 the court shall specify the factual basis for its conclusion that the
10 return would be detrimental. The court also shall make a finding
11 pursuant to subdivision (a) of Section 366. If the child is not
12 returned to his or her parent or legal guardian, the court shall
13 consider, and state for the record, in-state and out-of-state
14 placement options. If the child is placed out of the state, the court
15 shall make a determination whether the out-of-state placement
16 continues to be appropriate and in the best interests of the child.

17 (g) If the time period in which the court-ordered services were
18 provided has met or exceeded the time period set forth in
19 subparagraph (A), (B), or (C) of paragraph (1) of subdivision (a)
20 of Section 361.5, as appropriate, and a child is not returned to the
21 custody of a parent or legal guardian at the permanency hearing
22 held pursuant to subdivision (f), the court shall do one of the
23 following:

24 (1) Continue the case for up to six months for a permanency
25 review hearing, provided that the hearing shall occur within 18
26 months of the date the child was originally taken from the physical
27 custody of his or her parent or legal guardian. The court shall
28 continue the case only if it finds that there is a substantial
29 probability that the child will be returned to the physical custody
30 of his or her parent or legal guardian and safely maintained in the
31 home within the extended period of time or that reasonable services
32 have not been provided to the parent or legal guardian. For the
33 purposes of this section, in order to find a substantial probability
34 that the child will be returned to the physical custody of his or her
35 parent or legal guardian and safely maintained in the home within
36 the extended period of time, the court shall be required to find all
37 of the following:

38 (A) That the parent or legal guardian has consistently and
39 regularly contacted and visited with the child.

1 (B) That the parent or legal guardian has made significant
2 progress in resolving problems that led to the child's removal from
3 the home.

4 (C) The parent or legal guardian has demonstrated the capacity
5 and ability both to complete the objectives of his or her treatment
6 plan and to provide for the child's safety, protection, physical and
7 emotional well-being, and special needs.

8 For purposes of this subdivision, the court's decision to continue
9 the case based on a finding or substantial probability that the child
10 will be returned to the physical custody of his or her parent or legal
11 guardian is a compelling reason for determining that a hearing
12 held pursuant to Section 366.26 is not in the best interests of the
13 child.

14 The court shall inform the parent or legal guardian that if the
15 child cannot be returned home by the next permanency review
16 hearing, a proceeding pursuant to Section 366.26 may be instituted.
17 The court may not order that a hearing pursuant to Section 366.26
18 be held unless there is clear and convincing evidence that
19 reasonable services have been provided or offered to the parent or
20 legal guardian.

21 (2) Order that a hearing be held within 120 days, pursuant to
22 Section 366.26, but only if the court does not continue the case to
23 the permanency planning review hearing and there is clear and
24 convincing evidence that reasonable services have been provided
25 or offered to the parents or legal guardians. On and after January
26 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered
27 if the child is a nonminor dependent.

28 (3) Order that the child remain in long-term foster care, but only
29 if the court finds by clear and convincing evidence, based upon
30 the evidence already presented to it, including a recommendation
31 by the State Department of Social Services when it is acting as an
32 adoption agency in counties that are not served by a county
33 adoption agency or by a licensed county adoption agency, that
34 there is a compelling reason for determining that a hearing held
35 pursuant to Section 366.26 is not in the best interest of the child
36 because the child is not a proper subject for adoption and has no
37 one willing to accept legal guardianship. For purposes of this
38 section, a recommendation by the State Department of Social
39 Services when it is acting as an adoption agency in counties that
40 are not served by a county adoption agency or by a licensed county

1 adoption agency that adoption is not in the best interest of the child
2 shall constitute a compelling reason for the court's determination.
3 That recommendation shall be based on the present circumstances
4 of the child and shall not preclude a different recommendation at
5 a later date if the child's circumstances change. On and after
6 January 1, 2012, the nonminor dependent's legal status as an adult
7 is in and of itself a compelling reason not to hold a hearing pursuant
8 to Section 366.26. The court may order that a nonminor dependent
9 who otherwise meets the criteria described in Section 11403 remain
10 in a planned, permanent living arrangement.

11 If the court orders that a child who is 10 years of age or older
12 remain in long-term foster care, the court shall determine whether
13 the agency has made reasonable efforts to maintain the child's
14 relationships with individuals other than the child's siblings who
15 are important to the child, consistent with the child's best interests,
16 and may make any appropriate order to ensure that those
17 relationships are maintained.

18 If the child is not returned to his or her parent or legal guardian,
19 the court shall consider, and state for the record, in-state and
20 out-of-state options for permanent placement. If the child is placed
21 out of the state, the court shall make a determination whether the
22 out-of-state placement continues to be appropriate and in the best
23 interests of the child.

24 (h) In any case in which the court orders that a hearing pursuant
25 to Section 366.26 shall be held, it shall also order the termination
26 of reunification services to the parent or legal guardian. The court
27 shall continue to permit the parent or legal guardian to visit the
28 child pending the hearing unless it finds that visitation would be
29 detrimental to the child. The court shall make any other appropriate
30 orders to enable the child to maintain relationships with individuals,
31 other than the child's siblings, who are important to the child,
32 consistent with the child's best interests.

33 (i) (1) Whenever a court orders that a hearing pursuant to
34 Section 366.26, including, when, in consultation with the child's
35 tribe, tribal customary adoption is recommended, shall be held, it
36 shall direct the agency supervising the child and the licensed county
37 adoption agency, or the State Department of Social Services when
38 it is acting as an adoption agency in counties that are not served
39 by a county adoption agency, to prepare an assessment that shall
40 include:

1 (A) Current search efforts for an absent parent or parents or
2 legal guardians.

3 (B) A review of the amount of and nature of any contact between
4 the child and his or her parents or legal guardians and other
5 members of his or her extended family since the time of placement.
6 Although the extended family of each child shall be reviewed on
7 a case-by-case basis, “extended family” for the purpose of this
8 subparagraph shall include, but not be limited to, the child’s
9 siblings, grandparents, aunts, and uncles.

10 (C) An evaluation of the child’s medical, developmental,
11 scholastic, mental, and emotional status.

12 (D) A preliminary assessment of the eligibility and commitment
13 of any identified prospective adoptive parent or legal guardian,
14 including the prospective tribal customary adoptive parent,
15 particularly the caretaker, to include a social history including
16 screening for criminal records and prior referrals for child abuse
17 or neglect, the capability to meet the child’s needs, and the
18 understanding of the legal and financial rights and responsibilities
19 of adoption and guardianship. If a proposed guardian is a relative
20 of the minor, the assessment shall also consider, but need not be
21 limited to, all of the factors specified in subdivision (a) of Section
22 361.3 and in Section 361.4.

23 (E) The relationship of the child to any identified prospective
24 adoptive parent or legal guardian, the duration and character of
25 the relationship, the degree of attachment of the child to the
26 prospective relative guardian or adoptive parent, the relative’s or
27 adoptive parent’s strong commitment to caring permanently for
28 the child, the motivation for seeking adoption or guardianship, a
29 statement from the child concerning placement and the adoption
30 or guardianship, and whether the child, if over 12 years of age,
31 has been consulted about the proposed relative guardianship
32 arrangements, unless the child’s age or physical, emotional, or
33 other condition precludes his or her meaningful response, and if
34 so, a description of the condition.

35 (F) A description of efforts to be made to identify a prospective
36 adoptive parent or legal guardian, including, but not limited to,
37 child-specific recruitment and listing on an adoption exchange
38 within the state or out of the state.

39 (G) An analysis of the likelihood that the child will be adopted
40 if parental rights are terminated.

(H) In the case of an Indian child, in addition to subparagraphs (A) to (G), inclusive, an assessment of the likelihood that the child will be adopted, when, in consultation with the child's tribe, a customary tribal adoption, as defined in Section 366.24, is recommended. If tribal customary adoption is recommended, the assessment shall include an analysis of both of the following:

(i) Whether tribal customary adoption would or would not be detrimental to the Indian child and the reasons for reaching that conclusion.

(ii) Whether the Indian child cannot or should not be returned to the home of the Indian parent or Indian custodian and the reasons for reaching that conclusion.

(2) (A) A relative caregiver's preference for legal guardianship over adoption, if it is due to circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, shall not constitute the sole basis for recommending removal of the child from the relative caregiver for purposes of adoptive placement.

(B) A relative caregiver shall be given information regarding the permanency options of guardianship and adoption, including the long-term benefits and consequences of each option, prior to establishing legal guardianship or pursuing adoption.

(j) If, at any hearing held pursuant to Section 366.26, a guardianship is established for the minor with an approved relative caregiver, and juvenile court dependency is subsequently dismissed, the minor shall be eligible for aid under the Kin-GAP Program, as provided for in Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385), as applicable, of Chapter 2 of Part 3 of Division 9.

(k) As used in this section, "relative" means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of those persons even if the marriage was terminated by death or dissolution.

(l) For purposes of this section, evidence of any of the following circumstances may not, in and of itself, be deemed a failure to provide or offer reasonable services:

(1) The child has been placed with a foster family that is eligible to adopt a child, or has been placed in a preadoptive home.

1 (2) The case plan includes services to make and finalize a
2 permanent placement for the child if efforts to reunify fail.

3 (3) Services to make and finalize a permanent placement for
4 the child, if efforts to reunify fail, are provided concurrently with
5 services to reunify the family.

6 (m) The implementation and operation of the amendments to
7 subdivisions (c) and (g) enacted at the 2005–06 Regular Session
8 shall be subject to appropriation through the budget process and
9 by phase, as provided in Section 366.35.

10 (n) This section shall remain in effect only until January 1, 2014,
11 and as of that date is repealed, unless a later enacted statute, that
12 is enacted before January 1, 2014, deletes or extends that date.

13 SEC. 17. Section 366.21 of the Welfare and Institutions Code,
14 as added by Section 9 of Chapter 287 of the Statutes of 2009, is
15 amended to read:

16 366.21. (a) Every hearing conducted by the juvenile court
17 reviewing the status of a dependent child shall be placed on the
18 appearance calendar. The court shall advise all persons present at
19 the hearing of the date of the future hearing and of their right to
20 be present and represented by counsel.

21 (b) Except as provided in Sections 294 and 295, notice of the
22 hearing shall be provided pursuant to Section 293.

23 (c) At least 10 calendar days prior to the hearing, the social
24 worker shall file a supplemental report with the court regarding
25 the services provided or offered to the parent or legal guardian to
26 enable him or her to assume custody and the efforts made to
27 achieve legal permanence for the child if efforts to reunify fail,
28 including, but not limited to, efforts to maintain relationships
29 between a child who is 10 years of age or older and has been in
30 out-of-home placement for six months or longer and individuals
31 who are important to the child, consistent with the child's best
32 interests; the progress made; and, where relevant, the prognosis
33 for return of the child to the physical custody of his or her parent
34 or legal guardian; and shall make his or her recommendation for
35 disposition. If the child is a member of a sibling group described
36 in subparagraph (C) of paragraph (1) of subdivision (a) of Section
37 361.5, the report and recommendation may also take into account
38 those factors described in subdivision (e) relating to the child's
39 sibling group. If the recommendation is not to return the child to
40 a parent or legal guardian, the report shall specify why the return

1 of the child would be detrimental to the child. The social worker
2 shall provide the parent or legal guardian, counsel for the child,
3 and any court-appointed child advocate with a copy of the report,
4 including his or her recommendation for disposition, at least 10
5 calendar days prior to the hearing. In the case of a child removed
6 from the physical custody of his or her parent or legal guardian,
7 the social worker shall, at least 10 calendar days prior to the
8 hearing, provide a summary of his or her recommendation for
9 disposition to any foster parents, relative caregivers, and certified
10 foster parents who have been approved for adoption by the State
11 Department of Social Services when it is acting as an adoption
12 agency in counties that are not served by a county adoption agency
13 or by a licensed county adoption agency, community care facility,
14 or foster family agency having the physical custody of the child.
15 The social worker shall include a copy of the Judicial Council
16 Caregiver Information Form (JV-290) with the summary of
17 recommendations to the child's foster parents, relative caregivers,
18 or foster parents approved for adoption, in the caregiver's primary
19 language when available, along with information on how to file
20 the form with the court.

21 (d) Prior to any hearing involving a child in the physical custody
22 of a community care facility or a foster family agency that may
23 result in the return of the child to the physical custody of his or
24 her parent or legal guardian, or in adoption or the creation of a
25 legal guardianship, the facility or agency shall file with the court
26 a report, or a Judicial Council Caregiver Information Form
27 (JV-290), containing its recommendation for disposition. Prior to
28 the hearing involving a child in the physical custody of a foster
29 parent, a relative caregiver, or a certified foster parent who has
30 been approved for adoption by the State Department of Social
31 Services when it is acting as an adoption agency or by a licensed
32 adoption agency, the foster parent, relative caregiver, or the
33 certified foster parent who has been approved for adoption by the
34 State Department of Social Services when it is acting as an
35 adoption agency in counties that are not served by a county
36 adoption agency or by a licensed county adoption agency, may
37 file with the court a report containing his or her recommendation
38 for disposition. The court shall consider the report and
39 recommendation filed pursuant to this subdivision prior to
40 determining any disposition.

1 (e) At the review hearing held six months after the initial
2 dispositional hearing, but no later than 12 months after the date
3 the child entered foster care as determined in Section 361.49,
4 whichever occurs earlier, the court shall order the return of the
5 child to the physical custody of his or her parent or legal guardian
6 unless the court finds, by a preponderance of the evidence, that
7 the return of the child to his or her parent or legal guardian would
8 create a substantial risk of detriment to the safety, protection, or
9 physical or emotional well-being of the child. The social worker
10 shall have the burden of establishing that detriment. At the hearing,
11 the court shall consider the criminal history, obtained pursuant to
12 paragraph (1) of subdivision (f) of Section 16504.5, of the parent
13 or legal guardian subsequent to the child's removal to the extent
14 that the criminal record is substantially related to the welfare of
15 the child or the parent's or guardian's ability to exercise custody
16 and control regarding his or her child, provided the parent or legal
17 guardian agreed to submit fingerprint images to obtain criminal
18 history information as part of the case plan. The failure of the
19 parent or legal guardian to participate regularly and make
20 substantive progress in court-ordered treatment programs shall be
21 prima facie evidence that return would be detrimental. In making
22 its determination, the court shall review and consider the social
23 worker's report and recommendations and the report and
24 recommendations of any child advocate appointed pursuant to
25 Section 356.5; and shall consider the efforts or progress, or both,
26 demonstrated by the parent or legal guardian and the extent to
27 which he or she availed himself or herself to services provided,
28 taking into account the particular barriers to an incarcerated or
29 institutionalized parent or legal guardian's access to those
30 court-mandated services and ability to maintain contact with his
31 or her child.

32 Regardless of whether the child is returned to a parent or legal
33 guardian, the court shall specify the factual basis for its conclusion
34 that the return would be detrimental or would not be detrimental.
35 The court also shall make appropriate findings pursuant to
36 subdivision (a) of Section 366; and, where relevant, shall order
37 any additional services reasonably believed to facilitate the return
38 of the child to the custody of his or her parent or legal guardian.
39 The court shall also inform the parent or legal guardian that if the
40 child cannot be returned home by the 12-month permanency

1 hearing, a proceeding pursuant to Section 366.26 may be instituted.
2 This section does not apply in a case where, pursuant to Section
3 361.5, the court has ordered that reunification services shall not
4 be provided.

5 If the child was under three years of age on the date of the initial
6 removal, or is a member of a sibling group described in
7 subparagraph (C) of paragraph (1) of subdivision (a) of Section
8 361.5, and the court finds by clear and convincing evidence that
9 the parent failed to participate regularly and make substantive
10 progress in a court-ordered treatment plan, the court may schedule
11 a hearing pursuant to Section 366.26 within 120 days. If, however,
12 the court finds there is a substantial probability that the child, who
13 was under three years of age on the date of initial removal or is a
14 member of a sibling group described in subparagraph (C) of
15 paragraph (1) of subdivision (a) of Section 361.5, may be returned
16 to his or her parent or legal guardian within six months or that
17 reasonable services have not been provided, the court shall continue
18 the case to the 12-month permanency hearing.

19 For the purpose of placing and maintaining a sibling group
20 together in a permanent home, the court, in making its
21 determination to schedule a hearing pursuant to Section 366.26
22 for some or all members of a sibling group, as described in
23 subparagraph (C) of paragraph (1) of subdivision (a) of Section
24 361.5, shall review and consider the social worker's report and
25 recommendations. Factors the report shall address, and the court
26 shall consider, may include, but need not be limited to, whether
27 the sibling group was removed from parental care as a group, the
28 closeness and strength of the sibling bond, the ages of the siblings,
29 the appropriateness of maintaining the sibling group together, the
30 detriment to the child if sibling ties are not maintained, the
31 likelihood of finding a permanent home for the sibling group,
32 whether the sibling group is currently placed together in a
33 preadoptive home or has a concurrent plan goal of legal
34 permanency in the same home, the wishes of each child whose
35 age and physical and emotional condition permits a meaningful
36 response, and the best interest of each child in the sibling group.
37 The court shall specify the factual basis for its finding that it is in
38 the best interest of each child to schedule a hearing pursuant to
39 Section 366.26 in 120 days for some or all of the members of the
40 sibling group.

1 If the child was removed initially under subdivision (g) of
2 Section 300 and the court finds by clear and convincing evidence
3 that the whereabouts of the parent are still unknown, or the parent
4 has failed to contact and visit the child, the court may schedule a
5 hearing pursuant to Section 366.26 within 120 days. The court
6 shall take into account any particular barriers to a parent's ability
7 to maintain contact with his or her child due to the parent's
8 incarceration or institutionalization. If the court finds by clear and
9 convincing evidence that the parent has been convicted of a felony
10 indicating parental unfitness, the court may schedule a hearing
11 pursuant to Section 366.26 within 120 days.

12 If the child had been placed under court supervision with a
13 previously noncustodial parent pursuant to Section 361.2, the court
14 shall determine whether supervision is still necessary. The court
15 may terminate supervision and transfer permanent custody to that
16 parent, as provided for by paragraph (1) of subdivision (b) of
17 Section 361.2.

18 In all other cases, the court shall direct that any reunification
19 services previously ordered shall continue to be offered to the
20 parent or legal guardian pursuant to the time periods set forth in
21 subdivision (a) of Section 361.5, provided that the court may
22 modify the terms and conditions of those services.

23 If the child is not returned to his or her parent or legal guardian,
24 the court shall determine whether reasonable services that were
25 designed to aid the parent or legal guardian in overcoming the
26 problems that led to the initial removal and the continued custody
27 of the child have been provided or offered to the parent or legal
28 guardian. The court shall order that those services be initiated,
29 continued, or terminated.

30 (f) The permanency hearing shall be held no later than 12
31 months after the date the child entered foster care, as that date is
32 determined pursuant to Section 361.49. At the permanency hearing,
33 the court shall determine the permanent plan for the child, which
34 shall include a determination of whether the child will be returned
35 to the child's home and, if so, when, within the time limits of
36 subdivision (a) of Section 361.5. The court shall order the return
37 of the child to the physical custody of his or her parent or legal
38 guardian unless the court finds, by a preponderance of the evidence,
39 that the return of the child to his or her parent or legal guardian
40 would create a substantial risk of detriment to the safety, protection,

1 or physical or emotional well-being of the child. The social worker
2 shall have the burden of establishing that detriment. At the
3 permanency hearing, the court shall consider the criminal history,
4 obtained pursuant to paragraph (1) of subdivision (f) of Section
5 16504.5, of the parent or legal guardian subsequent to the child's
6 removal to the extent that the criminal record is substantially related
7 to the welfare of the child or the parent or legal guardian's ability
8 to exercise custody and control regarding his or her child, provided
9 that the parent or legal guardian agreed to submit fingerprint images
10 to obtain criminal history information as part of the case plan. The
11 court shall also determine whether reasonable services that were
12 designed to aid the parent or legal guardian to overcome the
13 problems that led to the initial removal and continued custody of
14 the child have been provided or offered to the parent or legal
15 guardian. For each youth 16 years of age and older, the court shall
16 also determine whether services have been made available to assist
17 him or her in making the transition from foster care to independent
18 living. The failure of the parent or legal guardian to participate
19 regularly and make substantive progress in court-ordered treatment
20 programs shall be prima facie evidence that return would be
21 detrimental. In making its determination, the court shall review
22 and consider the social worker's report and recommendations and
23 the report and recommendations of any child advocate appointed
24 pursuant to Section 356.5, shall consider the efforts or progress,
25 or both, demonstrated by the parent or legal guardian and the extent
26 to which he or she availed himself or herself of services provided,
27 taking into account the particular barriers to an incarcerated or
28 institutionalized parent or legal guardian's access to those
29 court-mandated services and ability to maintain contact with his
30 or her child and shall make appropriate findings pursuant to
31 subdivision (a) of Section 366.

32 Regardless of whether the child is returned to his or her parent
33 or legal guardian, the court shall specify the factual basis for its
34 decision. If the child is not returned to a parent or legal guardian,
35 the court shall specify the factual basis for its conclusion that the
36 return would be detrimental. The court also shall make a finding
37 pursuant to subdivision (a) of Section 366. If the child is not
38 returned to his or her parent or legal guardian, the court shall
39 consider, and state for the record, in-state and out-of-state
40 placement options. If the child is placed out of the state, the court

1 shall make a determination whether the out-of-state placement
2 continues to be appropriate and in the best interests of the child.

3 (g) If the time period in which the court-ordered services were
4 provided has met or exceeded the time period set forth in
5 subparagraph (A), (B), or (C) of paragraph (1) of subdivision (a)
6 of Section 361.5, as appropriate, and a child is not returned to the
7 custody of a parent or legal guardian at the permanency hearing
8 held pursuant to subdivision (f), the court shall do one of the
9 following:

10 (1) Continue the case for up to six months for a permanency
11 review hearing, provided that the hearing shall occur within 18
12 months of the date the child was originally taken from the physical
13 custody of his or her parent or legal guardian. The court shall
14 continue the case only if it finds that there is a substantial
15 probability that the child will be returned to the physical custody
16 of his or her parent or legal guardian and safely maintained in the
17 home within the extended period of time or that reasonable services
18 have not been provided to the parent or legal guardian. For the
19 purposes of this section, in order to find a substantial probability
20 that the child will be returned to the physical custody of his or her
21 parent or legal guardian and safely maintained in the home within
22 the extended period of time, the court shall be required to find all
23 of the following:

24 (A) That the parent or legal guardian has consistently and
25 regularly contacted and visited with the child.

26 (B) That the parent or legal guardian has made significant
27 progress in resolving problems that led to the child's removal from
28 the home.

29 (C) The parent or legal guardian has demonstrated the capacity
30 and ability both to complete the objectives of his or her treatment
31 plan and to provide for the child's safety, protection, physical and
32 emotional well-being, and special needs.

33 For purposes of this subdivision, the court's decision to continue
34 the case based on a finding or substantial probability that the child
35 will be returned to the physical custody of his or her parent or legal
36 guardian is a compelling reason for determining that a hearing
37 held pursuant to Section 366.26 is not in the best interests of the
38 child.

39 The court shall inform the parent or legal guardian that if the
40 child cannot be returned home by the next permanency review

1 hearing, a proceeding pursuant to Section 366.26 may be instituted.
2 The court may not order that a hearing pursuant to Section 366.26
3 be held unless there is clear and convincing evidence that
4 reasonable services have been provided or offered to the parent or
5 legal guardian.

6 (2) Order that a hearing be held within 120 days, pursuant to
7 Section 366.26, but only if the court does not continue the case to
8 the permanency planning review hearing and there is clear and
9 convincing evidence that reasonable services have been provided
10 or offered to the parents or legal guardians. On or after January 1,
11 2012, a hearing pursuant to Section 366.26 shall not be ordered if
12 the child is a nonminor dependent.

13 (3) Order that the child remain in long-term foster care, but only
14 if the court finds by clear and convincing evidence, based upon
15 the evidence already presented to it, including a recommendation
16 by the State Department of Social Services when it is acting as an
17 adoption agency in counties that are not served by a county
18 adoption agency or by a licensed county adoption agency, that
19 there is a compelling reason for determining that a hearing held
20 pursuant to Section 366.26 is not in the best interest of the child
21 because the child is not a proper subject for adoption and has no
22 one willing to accept legal guardianship. For purposes of this
23 section, a recommendation by the State Department of Social
24 Services when it is acting as an adoption agency in counties that
25 are not served by a county adoption agency or by a licensed county
26 adoption agency that adoption is not in the best interest of the child
27 shall constitute a compelling reason for the court's determination.
28 That recommendation shall be based on the present circumstances
29 of the child and shall not preclude a different recommendation at
30 a later date if the child's circumstances change. On and after
31 January 1, 2012, the nonminor dependent's legal status as an adult
32 is in and of itself a compelling reason not to hold a hearing pursuant
33 to Section 366.26. The court may order that a nonminor dependent
34 who otherwise meets the criteria described in Section 11403 remain
35 in a planned, permanent living arrangement.

36 If the court orders that a child who is 10 years of age or older
37 remain in long-term foster care, the court shall determine whether
38 the agency has made reasonable efforts to maintain the child's
39 relationships with individuals other than the child's siblings who
40 are important to the child, consistent with the child's best interests,

1 and may make any appropriate order to ensure that those
2 relationships are maintained.

3 If the child is not returned to his or her parent or legal guardian,
4 the court shall consider, and state for the record, in-state and
5 out-of-state options for permanent placement. If the child is placed
6 out of the state, the court shall make a determination whether the
7 out-of-state placement continues to be appropriate and in the best
8 interests of the child.

9 (h) In any case in which the court orders that a hearing pursuant
10 to Section 366.26 shall be held, it shall also order the termination
11 of reunification services to the parent or legal guardian. The court
12 shall continue to permit the parent or legal guardian to visit the
13 child pending the hearing unless it finds that visitation would be
14 detrimental to the child. The court shall make any other appropriate
15 orders to enable the child to maintain relationships with individuals,
16 other than the child's siblings, who are important to the child,
17 consistent with the child's best interests.

18 (i) (1) Whenever a court orders that a hearing pursuant to
19 Section 366.26 shall be held, it shall direct the agency supervising
20 the child and the licensed county adoption agency, or the State
21 Department of Social Services when it is acting as an adoption
22 agency in counties that are not served by a county adoption agency,
23 to prepare an assessment that shall include:

24 (A) Current search efforts for an absent parent or parents or
25 legal guardians.

26 (B) A review of the amount of and nature of any contact between
27 the child and his or her parents or legal guardians and other
28 members of his or her extended family since the time of placement.
29 Although the extended family of each child shall be reviewed on
30 a case-by-case basis, "extended family" for the purpose of this
31 subparagraph shall include, but not be limited to, the child's
32 siblings, grandparents, aunts, and uncles.

33 (C) An evaluation of the child's medical, developmental,
34 scholastic, mental, and emotional status.

35 (D) A preliminary assessment of the eligibility and commitment
36 of any identified prospective adoptive parent or legal guardian,
37 particularly the caretaker, to include a social history including
38 screening for criminal records and prior referrals for child abuse
39 or neglect, the capability to meet the child's needs, and the
40 understanding of the legal and financial rights and responsibilities

1 of adoption and guardianship. If a proposed guardian is a relative
2 of the minor, the assessment shall also consider, but need not be
3 limited to, all of the factors specified in subdivision (a) of Section
4 361.3 and in Section 361.4.

5 (E) The relationship of the child to any identified prospective
6 adoptive parent or legal guardian, the duration and character of
7 the relationship, the degree of attachment of the child to the
8 prospective relative guardian or adoptive parent, the relative's or
9 adoptive parent's strong commitment to caring permanently for
10 the child, the motivation for seeking adoption or guardianship, a
11 statement from the child concerning placement and the adoption
12 or guardianship, and whether the child, if over 12 years of age,
13 has been consulted about the proposed relative guardianship
14 arrangements, unless the child's age or physical, emotional, or
15 other condition precludes his or her meaningful response, and if
16 so, a description of the condition.

17 (F) A description of efforts to be made to identify a prospective
18 adoptive parent or legal guardian, including, but not limited to,
19 child-specific recruitment and listing on an adoption exchange
20 within the state or out of the state.

21 (G) An analysis of the likelihood that the child will be adopted
22 if parental rights are terminated.

23 (2) (A) A relative caregiver's preference for legal guardianship
24 over adoption, if it is due to circumstances that do not include an
25 unwillingness to accept legal or financial responsibility for the
26 child, shall not constitute the sole basis for recommending removal
27 of the child from the relative caregiver for purposes of adoptive
28 placement.

29 (B) A relative caregiver shall be given information regarding
30 the permanency options of guardianship and adoption, including
31 the long-term benefits and consequences of each option, prior to
32 establishing legal guardianship or pursuing adoption.

33 (j) If, at any hearing held pursuant to Section 366.26, a
34 guardianship is established for the minor with a an approved
35 relative caregiver, and juvenile court dependency is subsequently
36 dismissed, the minor shall be eligible for aid under the Kin-GAP
37 Program, as provided for in Article 4.5 (commencing with Section
38 11360) or Article 4.7 (commencing with Section 11385), as
39 applicable, of Chapter 2 of Part 3 of Division 9.

1 (k) As used in this section, “relative” means an adult who is
2 related to the minor by blood, adoption, or affinity within the fifth
3 degree of kinship, including stepparents, stepsiblings, and all
4 relatives whose status is preceded by the words “great,”
5 “great-great,” or “grand,” or the spouse of any of those persons
6 even if the marriage was terminated by death or dissolution.

7 (l) For purposes of this section, evidence of any of the following
8 circumstances may not, in and of itself, be deemed a failure to
9 provide or offer reasonable services:

10 (1) The child has been placed with a foster family that is eligible
11 to adopt a child, or has been placed in a preadoptive home.

12 (2) The case plan includes services to make and finalize a
13 permanent placement for the child if efforts to reunify fail.

14 (3) Services to make and finalize a permanent placement for
15 the child, if efforts to reunify fail, are provided concurrently with
16 services to reunify the family.

17 (m) The implementation and operation of the amendments to
18 subdivisions (c) and (g) enacted at the 2005–06 Regular Session
19 shall be subject to appropriation through the budget process and
20 by phase, as provided in Section 366.35.

21 (n) This section shall become operative on January 1, 2014.

22 SEC. 18. Section 366.22 of the Welfare and Institutions Code,
23 as amended by Section 10 of Chapter 287 of the Statutes of 2009,
24 is amended to read:

25 366.22. (a) When a case has been continued pursuant to
26 paragraph (1) of subdivision (g) of Section 366.21, the permanency
27 review hearing shall occur within 18 months after the date the
28 child was originally removed from the physical custody of his or
29 her parent or legal guardian. The court shall order the return of the
30 child to the physical custody of his or her parent or legal guardian
31 unless the court finds, by a preponderance of the evidence, that
32 the return of the child to his or her parent or legal guardian would
33 create a substantial risk of detriment to the safety, protection, or
34 physical or emotional well-being of the child. The social worker
35 shall have the burden of establishing that detriment. At the
36 permanency review hearing, the court shall consider the criminal
37 history, obtained pursuant to paragraph (1) of subdivision (f) of
38 Section 16504.5, of the parent or legal guardian subsequent to the
39 child’s removal, to the extent that the criminal record is
40 substantially related to the welfare of the child or the parent’s or

1 legal guardian's ability to exercise custody and control regarding
2 his or her child, provided that the parent or legal guardian agreed
3 to submit fingerprint images to obtain criminal history information
4 as part of the case plan. The failure of the parent or legal guardian
5 to participate regularly and make substantive progress in
6 court-ordered treatment programs shall be prima facie evidence
7 that return would be detrimental. In making its determination, the
8 court shall review and consider the social worker's report and
9 recommendations and the report and recommendations of any child
10 advocate appointed pursuant to Section 356.5; shall consider the
11 efforts or progress, or both, demonstrated by the parent or legal
12 guardian and the extent to which he or she availed himself or
13 herself of services provided, taking into account the particular
14 barriers of an incarcerated or institutionalized parent or legal
15 guardian's access to those court-mandated services and ability to
16 maintain contact with his or her child; and shall make appropriate
17 findings pursuant to subdivision (a) of Section 366.

18 Whether or not the child is returned to his or her parent or legal
19 guardian, the court shall specify the factual basis for its decision.
20 If the child is not returned to a parent or legal guardian, the court
21 shall specify the factual basis for its conclusion that return would
22 be detrimental. If the child is not returned to his or her parent or
23 legal guardian, the court shall consider, and state for the record,
24 in-state and out-of-state options for the child's permanent
25 placement. If the child is placed out of the state, the court shall
26 make a determination whether the out-of-state placement continues
27 to be appropriate and in the best interests of the child.

28 Unless the conditions in subdivision (b) are met and the child is
29 not returned to a parent or legal guardian at the permanency review
30 hearing, the court shall order that a hearing be held pursuant to
31 Section 366.26 in order to determine whether adoption, or, in the
32 case of an Indian child, in consultation with the child's tribe, tribal
33 customary adoption, guardianship, or long-term foster care is the
34 most appropriate plan for the child. On and after January 1, 2012,
35 a hearing pursuant to Section 366.26 shall not be ordered if the
36 child is a nonminor dependent. However, if the court finds by clear
37 and convincing evidence, based on the evidence already presented
38 to it, including a recommendation by the State Department of
39 Social Services when it is acting as an adoption agency in counties
40 that are not served by a county adoption agency or by a licensed

1 county adoption agency, that there is a compelling reason, as
2 described in paragraph (3) of subdivision (g) of Section 366.21,
3 for determining that a hearing held under Section 366.26 is not in
4 the best interest of the child because the child is not a proper
5 subject for adoption and has no one willing to accept legal
6 guardianship, then the court may, only under these circumstances,
7 order that the child remain in long-term foster care. On and after
8 January 1, 2012, the nonminor dependent's legal status as an adult
9 is in and of itself a compelling reason not to hold a hearing pursuant
10 to Section 366.26. The court may order that a nonminor dependent
11 who otherwise meets the criteria described in Section 11403 remain
12 in a planned, permanent living arrangement. If the court orders
13 that a child who is 10 years of age or older remain in long-term
14 foster care, the court shall determine whether the agency has made
15 reasonable efforts to maintain the child's relationships with
16 individuals other than the child's siblings who are important to the
17 child, consistent with the child's best interests, and may make any
18 appropriate order to ensure that those relationships are maintained.
19 The hearing shall be held no later than 120 days from the date of
20 the permanency review hearing. The court shall also order
21 termination of reunification services to the parent or legal guardian.
22 The court shall continue to permit the parent or legal guardian to
23 visit the child unless it finds that visitation would be detrimental
24 to the child. The court shall determine whether reasonable services
25 have been offered or provided to the parent or legal guardian. For
26 purposes of this subdivision, evidence of any of the following
27 circumstances shall not, in and of themselves, be deemed a failure
28 to provide or offer reasonable services:

29 (1) The child has been placed with a foster family that is eligible
30 to adopt a child, or has been placed in a preadoptive home.

31 (2) The case plan includes services to make and finalize a
32 permanent placement for the child if efforts to reunify fail.

33 (3) Services to make and finalize a permanent placement for
34 the child, if efforts to reunify fail, are provided concurrently with
35 services to reunify the family.

36 (b) If the child is not returned to a parent or legal guardian at
37 the permanency review hearing and the court determines by clear
38 and convincing evidence that the best interests of the child would
39 be met by the provision of additional reunification services to a
40 parent or legal guardian who is making significant and consistent

1 progress in a substance abuse treatment program, or a parent
2 recently discharged from incarceration or institutionalization and
3 making significant and consistent progress in establishing a safe
4 home for the child's return, the court may continue the case for
5 up to six months for a subsequent permanency review hearing,
6 provided that the hearing shall occur within 24 months of the date
7 the child was originally taken from the physical custody of his or
8 her parent or legal guardian. The court shall continue the case only
9 if it finds that there is a substantial probability that the child will
10 be returned to the physical custody of his or her parent or legal
11 guardian and safely maintained in the home within the extended
12 period of time or that reasonable services have not been provided
13 to the parent or legal guardian. For the purposes of this section, in
14 order to find a substantial probability that the child will be returned
15 to the physical custody of his or her parent or legal guardian and
16 safely maintained in the home within the extended period of time,
17 the court shall be required to find all of the following:

18 (1) That the parent or legal guardian has consistently and
19 regularly contacted and visited with the child.

20 (2) That the parent or legal guardian has made significant and
21 consistent progress in the prior 18 months in resolving problems
22 that led to the child's removal from the home.

23 (3) The parent or legal guardian has demonstrated the capacity
24 and ability both to complete the objectives of his or her substance
25 abuse treatment plan as evidenced by reports from a substance
26 abuse provider as applicable, or complete a treatment plan
27 postdischarge from incarceration or institutionalization, and to
28 provide for the child's safety, protection, physical and emotional
29 well-being, and special needs.

30 For purposes of this subdivision, the court's decision to continue
31 the case based on a finding or substantial probability that the child
32 will be returned to the physical custody of his or her parent or legal
33 guardian is a compelling reason for determining that a hearing
34 held pursuant to Section 366.26 is not in the best interests of the
35 child.

36 The court shall inform the parent or legal guardian that if the
37 child cannot be returned home by the subsequent permanency
38 review hearing, a proceeding pursuant to Section 366.26 may be
39 instituted. The court may not order that a hearing pursuant to
40 Section 366.26 be held unless there is clear and convincing

1 evidence that reasonable services have been provided or offered
2 to the parent or legal guardian.

3 (c) (1) Whenever a court orders that a hearing pursuant to
4 Section 366.26, including when a tribal customary adoption is
5 recommended, shall be held, it shall direct the agency supervising
6 the child and the licensed county adoption agency, or the State
7 Department of Social Services when it is acting as an adoption
8 agency in counties that are not served by a county adoption agency,
9 to prepare an assessment that shall include:

10 (A) Current search efforts for an absent parent or parents.

11 (B) A review of the amount of and nature of any contact between
12 the child and his or her parents and other members of his or her
13 extended family since the time of placement. Although the
14 extended family of each child shall be reviewed on a case-by-case
15 basis, “extended family” for the purposes of this subparagraph
16 shall include, but not be limited to, the child’s siblings,
17 grandparents, aunts, and uncles.

18 (C) An evaluation of the child’s medical, developmental,
19 scholastic, mental, and emotional status.

20 (D) A preliminary assessment of the eligibility and commitment
21 of any identified prospective adoptive parent or legal guardian,
22 particularly the caretaker, to include a social history including
23 screening for criminal records and prior referrals for child abuse
24 or neglect, the capability to meet the child’s needs, and the
25 understanding of the legal and financial rights and responsibilities
26 of adoption and guardianship. If a proposed legal guardian is a
27 relative of the minor, the assessment shall also consider, but need
28 not be limited to, all of the factors specified in subdivision (a) of
29 Section 361.3 and Section 361.4.

30 (E) The relationship of the child to any identified prospective
31 adoptive parent or legal guardian, the duration and character of
32 the relationship, the degree of attachment of the child to the
33 prospective relative guardian or adoptive parent, the relative’s or
34 adoptive parent’s strong commitment to caring permanently for
35 the child, the motivation for seeking adoption or legal guardianship,
36 a statement from the child concerning placement and the adoption
37 or legal guardianship, and whether the child, if over 12 years of
38 age, has been consulted about the proposed relative guardianship
39 arrangements, unless the child’s age or physical, emotional, or

1 other condition precludes his or her meaningful response, and if
2 so, a description of the condition.

3 (F) An analysis of the likelihood that the child will be adopted
4 if parental rights are terminated.

5 (G) In the case of an Indian child, in addition to subparagraphs
6 (A) to (F), inclusive, an assessment of the likelihood that the child
7 will be adopted, when, in consultation with the child's tribe, a
8 customary tribal adoption, as defined in Section 366.24, is
9 recommended. If tribal customary adoption is recommended, the
10 assessment shall include an analysis of both of the following:

11 (i) Whether tribal customary adoption would or would not be
12 detrimental to the Indian child and the reasons for reaching that
13 conclusion.

14 (ii) Whether the Indian child cannot or should not be returned
15 to the home of the Indian parent or Indian custodian and the reasons
16 for reaching that conclusion.

17 (2) (A) A relative caregiver's preference for legal guardianship
18 over adoption, if it is due to circumstances that do not include an
19 unwillingness to accept legal or financial responsibility for the
20 child, shall not constitute the sole basis for recommending removal
21 of the child from the relative caregiver for purposes of adoptive
22 placement.

23 (B) A relative caregiver shall be given information regarding
24 the permanency options of guardianship and adoption, including
25 the long-term benefits and consequences of each option, prior to
26 establishing legal guardianship or pursuing adoption.

27 (d) This section shall become operative January 1, 1999. If at
28 any hearing held pursuant to Section 366.26, a legal guardianship
29 is established for the minor with an approved relative caregiver,
30 and juvenile court dependency is subsequently dismissed, the
31 relative shall be eligible for aid under the Kin-GAP Program, as
32 provided for in Article 4.5 (commencing with Section 11360) or
33 Article 4.7 (commencing with Section 11385), as applicable, of
34 Chapter 2 of Part 3 of Division 9.

35 (e) As used in this section, "relative" means an adult who is
36 related to the child by blood, adoption, or affinity within the fifth
37 degree of kinship, including stepparents, stepsiblings, and all
38 relatives whose status is preceded by the words "great,"
39 "great-great," or "grand," or the spouse of any of those persons
40 even if the marriage was terminated by death or dissolution.

1 (f) The implementation and operation of the amendments to
2 subdivision (a) enacted at the 2005–06 Regular Session shall be
3 subject to appropriation through the budget process and by phase,
4 as provided in Section 366.35.

5 (g) This section shall remain in effect only until January 1, 2014,
6 and as of that date is repealed, unless a later enacted statute, that
7 is enacted before January 1, 2014, deletes or extends that date.

8 SEC. 19. Section 366.22 of the Welfare and Institutions Code,
9 as added by Section 11 of Chapter 287 of the Statutes of 2009, is
10 amended to read:

11 366.22. (a) When a case has been continued pursuant to
12 paragraph (1) of subdivision (g) of Section 366.21, the permanency
13 review hearing shall occur within 18 months after the date the
14 child was originally removed from the physical custody of his or
15 her parent or legal guardian. The court shall order the return of the
16 child to the physical custody of his or her parent or legal guardian
17 unless the court finds, by a preponderance of the evidence, that
18 the return of the child to his or her parent or legal guardian would
19 create a substantial risk of detriment to the safety, protection, or
20 physical or emotional well-being of the child. The social worker
21 shall have the burden of establishing that detriment. At the
22 permanency review hearing, the court shall consider the criminal
23 history, obtained pursuant to paragraph (1) of subdivision (f) of
24 Section 16504.5, of the parent or legal guardian subsequent to the
25 child's removal, to the extent that the criminal record is
26 substantially related to the welfare of the child or the parent's or
27 legal guardian's ability to exercise custody and control regarding
28 his or her child, provided that the parent or legal guardian agreed
29 to submit fingerprint images to obtain criminal history information
30 as part of the case plan. The failure of the parent or legal guardian
31 to participate regularly and make substantive progress in
32 court-ordered treatment programs shall be prima facie evidence
33 that return would be detrimental. In making its determination, the
34 court shall review and consider the social worker's report and
35 recommendations and the report and recommendations of any child
36 advocate appointed pursuant to Section 356.5; shall consider the
37 efforts or progress, or both, demonstrated by the parent or legal
38 guardian and the extent to which he or she availed himself or
39 herself of services provided, taking into account the particular
40 barriers of an incarcerated or institutionalized parent or legal

1 guardian's access to those court-mandated services and ability to
2 maintain contact with his or her child; and shall make appropriate
3 findings pursuant to subdivision (a) of Section 366.

4 Whether or not the child is returned to his or her parent or legal
5 guardian, the court shall specify the factual basis for its decision.
6 If the child is not returned to a parent or legal guardian, the court
7 shall specify the factual basis for its conclusion that return would
8 be detrimental. If the child is not returned to his or her parent or
9 legal guardian, the court shall consider, and state for the record,
10 in-state and out-of-state options for the child's permanent
11 placement. If the child is placed out of the state, the court shall
12 make a determination whether the out-of-state placement continues
13 to be appropriate and in the best interests of the child.

14 Unless the conditions in subdivision (b) are met and the child is
15 not returned to a parent or legal guardian at the permanency review
16 hearing, the court shall order that a hearing be held pursuant to
17 Section 366.26 in order to determine whether adoption,
18 guardianship, or long-term foster care is the most appropriate plan
19 for the child. On and after January 1, 2012, a hearing pursuant to
20 Section 366.26 shall not be ordered if the child is a nonminor
21 dependent. However, if the court finds by clear and convincing
22 evidence, based on the evidence already presented to it, including
23 a recommendation by the State Department of Social Services
24 when it is acting as an adoption agency in counties that are not
25 served by a county adoption agency or by a licensed county
26 adoption agency, that there is a compelling reason, as described
27 in paragraph (3) of subdivision (g) of Section 366.21, for
28 determining that a hearing held under Section 366.26 is not in the
29 best interest of the child because the child is not a proper subject
30 for adoption and has no one willing to accept legal guardianship,
31 then the court may, only under these circumstances, order that the
32 child remain in long-term foster care. On and after January 1, 2012,
33 the nonminor dependent's legal status as an adult is in and of itself
34 a compelling reason not to hold a hearing pursuant to Section
35 366.26. The court may order that a nonminor dependent who
36 otherwise meets the criteria described in Section 11403 remain in
37 a planned, permanent living arrangement. If the court orders that
38 a child who is 10 years of age or older remain in long-term foster
39 care, the court shall determine whether the agency has made
40 reasonable efforts to maintain the child's relationships with

1 individuals other than the child's siblings who are important to the
2 child, consistent with the child's best interests, and may make any
3 appropriate order to ensure that those relationships are maintained.
4 The hearing shall be held no later than 120 days from the date of
5 the permanency review hearing. The court shall also order
6 termination of reunification services to the parent or legal guardian.
7 The court shall continue to permit the parent or legal guardian to
8 visit the child unless it finds that visitation would be detrimental
9 to the child. The court shall determine whether reasonable services
10 have been offered or provided to the parent or legal guardian. For
11 purposes of this subdivision, evidence of any of the following
12 circumstances shall not, in and of themselves, be deemed a failure
13 to provide or offer reasonable services:

14 (1) The child has been placed with a foster family that is eligible
15 to adopt a child, or has been placed in a preadoptive home.

16 (2) The case plan includes services to make and finalize a
17 permanent placement for the child if efforts to reunify fail.

18 (3) Services to make and finalize a permanent placement for
19 the child, if efforts to reunify fail, are provided concurrently with
20 services to reunify the family.

21 (b) If the child is not returned to a parent or legal guardian at
22 the permanency review hearing and the court determines by clear
23 and convincing evidence that the best interests of the child would
24 be met by the provision of additional reunification services to a
25 parent or legal guardian who is making significant and consistent
26 progress in a substance abuse treatment program, or a parent
27 recently discharged from incarceration or institutionalization and
28 making significant and consistent progress in establishing a safe
29 home for the child's return, the court may continue the case for
30 up to six months for a subsequent permanency review hearing,
31 provided that the hearing shall occur within 24 months of the date
32 the child was originally taken from the physical custody of his or
33 her parent or legal guardian. The court shall continue the case only
34 if it finds that there is a substantial probability that the child will
35 be returned to the physical custody of his or her parent or legal
36 guardian and safely maintained in the home within the extended
37 period of time or that reasonable services have not been provided
38 to the parent or legal guardian. For the purposes of this section, in
39 order to find a substantial probability that the child will be returned
40 to the physical custody of his or her parent or legal guardian and

1 safely maintained in the home within the extended period of time,
2 the court shall be required to find all of the following:

3 (1) That the parent or legal guardian has consistently and
4 regularly contacted and visited with the child.

5 (2) That the parent or legal guardian has made significant and
6 consistent progress in the prior 18 months in resolving problems
7 that led to the child's removal from the home.

8 (3) The parent or legal guardian has demonstrated the capacity
9 and ability both to complete the objectives of his or her substance
10 abuse treatment plan as evidenced by reports from a substance
11 abuse provider as applicable, or complete a treatment plan
12 postdischarge from incarceration or institutionalization, and to
13 provide for the child's safety, protection, physical and emotional
14 well-being, and special needs.

15 For purposes of this subdivision, the court's decision to continue
16 the case based on a finding or substantial probability that the child
17 will be returned to the physical custody of his or her parent or legal
18 guardian is a compelling reason for determining that a hearing
19 held pursuant to Section 366.26 is not in the best interests of the
20 child.

21 The court shall inform the parent or legal guardian that if the
22 child cannot be returned home by the subsequent permanency
23 review hearing, a proceeding pursuant to Section 366.26 may be
24 instituted. The court may not order that a hearing pursuant to
25 Section 366.26 be held unless there is clear and convincing
26 evidence that reasonable services have been provided or offered
27 to the parent or legal guardian.

28 (c) (1) Whenever a court orders that a hearing pursuant to
29 Section 366.26 shall be held, it shall direct the agency supervising
30 the child and the licensed county adoption agency, or the State
31 Department of Social Services when it is acting as an adoption
32 agency in counties that are not served by a county adoption agency,
33 to prepare an assessment that shall include:

34 (A) Current search efforts for an absent parent or parents.

35 (B) A review of the amount of and nature of any contact between
36 the child and his or her parents and other members of his or her
37 extended family since the time of placement. Although the
38 extended family of each child shall be reviewed on a case-by-case
39 basis, "extended family" for the purposes of this subparagraph

1 shall include, but not be limited to, the child's siblings,
2 grandparents, aunts, and uncles.

3 (C) An evaluation of the child's medical, developmental,
4 scholastic, mental, and emotional status.

5 (D) A preliminary assessment of the eligibility and commitment
6 of any identified prospective adoptive parent or legal guardian,
7 particularly the caretaker, to include a social history including
8 screening for criminal records and prior referrals for child abuse
9 or neglect, the capability to meet the child's needs, and the
10 understanding of the legal and financial rights and responsibilities
11 of adoption and guardianship. If a proposed legal guardian is a
12 relative of the minor, the assessment shall also consider, but need
13 not be limited to, all of the factors specified in subdivision (a) of
14 Section 361.3 and Section 361.4.

15 (E) The relationship of the child to any identified prospective
16 adoptive parent or legal guardian, the duration and character of
17 the relationship, the degree of attachment of the child to the
18 prospective relative guardian or adoptive parent, the relative's or
19 adoptive parent's strong commitment to caring permanently for
20 the child, the motivation for seeking adoption or legal guardianship,
21 a statement from the child concerning placement and the adoption
22 or legal guardianship, and whether the child, if over 12 years of
23 age, has been consulted about the proposed relative guardianship
24 arrangements, unless the child's age or physical, emotional, or
25 other condition precludes his or her meaningful response, and if
26 so, a description of the condition.

27 (F) An analysis of the likelihood that the child will be adopted
28 if parental rights are terminated.

29 (2) (A) A relative caregiver's preference for legal guardianship
30 over adoption, if it is due to circumstances that do not include an
31 unwillingness to accept legal or financial responsibility for the
32 child, shall not constitute the sole basis for recommending removal
33 of the child from the relative caregiver for purposes of adoptive
34 placement.

35 (B) A relative caregiver shall be given information regarding
36 the permanency options of guardianship and adoption, including
37 the long-term benefits and consequences of each option, prior to
38 establishing legal guardianship or pursuing adoption.

39 (d) This section shall become operative January 1, 1999. If at
40 any hearing held pursuant to Section 366.26, a legal guardianship

1 is established for the minor with an approved relative caregiver,
2 and juvenile court dependency is subsequently dismissed, the minor
3 shall be eligible for aid under the Kin-GAP Program, as provided
4 for in Article 4.5 (commencing with Section 11360) or Article 4.7
5 (commencing with Section 11385), as applicable, of Chapter 2 of
6 Part 3 of Division 9.

7 (e) As used in this section, “relative” means an adult who is
8 related to the child by blood, adoption, or affinity within the fifth
9 degree of kinship, including stepparents, stepsiblings, and all
10 relatives whose status is preceded by the words “great,”
11 “great-great,” or “grand,” or the spouse of any of those persons
12 even if the marriage was terminated by death or dissolution.

13 (f) The implementation and operation of the amendments to
14 subdivision (a) enacted at the 2005–06 Regular Session shall be
15 subject to appropriation through the budget process and by phase,
16 as provided in Section 366.35.

17 (g) This section shall become operative on January 1, 2014.

18 SEC. 20. Section 366.25 of the Welfare and Institutions Code,
19 as amended by Section 13 of Chapter 287 of the Statutes of 2009,
20 is amended to read:

21 366.25. (a) (1) When a case has been continued pursuant to
22 subdivision (b) of Section 366.22, the subsequent permanency
23 review hearing shall occur within 24 months after the date the
24 child was originally removed from the physical custody of his or
25 her parent or legal guardian. The court shall order the return of the
26 child to the physical custody of his or her parent or legal guardian
27 unless the court finds, by a preponderance of the evidence, that
28 the return of the child to his or her parent or legal guardian would
29 create a substantial risk of detriment to the safety, protection, or
30 physical or emotional well-being of the child. The social worker
31 shall have the burden of establishing that detriment. At the
32 subsequent permanency review hearing, the court shall consider
33 the criminal history, obtained pursuant to paragraph (1) of
34 subdivision (f) of Section 16504.5, of the parent or legal guardian
35 subsequent to the child’s removal to the extent that the criminal
36 record is substantially related to the welfare of the child or parent
37 or legal guardian’s ability to exercise custody and control regarding
38 his or her child provided that the parent or legal guardian agreed
39 to submit fingerprint images to obtain criminal history information
40 as part of the case plan. The failure of the parent or legal guardian

1 to participate regularly and make substantive progress in
2 court-ordered treatment programs shall be prima facie evidence
3 that return would be detrimental. In making its determination, the
4 court shall review and consider the social worker's report and
5 recommendations and the report and recommendations of any child
6 advocate appointed pursuant to Section 356.5; shall consider the
7 efforts or progress, or both, demonstrated by the parent or legal
8 guardian and the extent to which he or she availed himself or
9 herself of services provided; and shall make appropriate findings
10 pursuant to subdivision (a) of Section 366.

11 (2) Whether or not the child is returned to his or her parent or
12 legal guardian, the court shall specify the factual basis for its
13 decision. If the child is not returned to a parent or legal guardian,
14 the court shall specify the factual basis for its conclusion that return
15 would be detrimental. If the child is not returned to his or her
16 parents or legal guardian, the court shall consider and state for the
17 record, in-state and out-of-state options for the child's permanent
18 placement. If the child is placed out of the state, the court shall
19 make a determination whether the out-of-state placement continues
20 to be appropriate and in best interests of the child.

21 (3) If the child is not returned to a parent or legal guardian at
22 the subsequent permanency review hearing, the court shall order
23 that a hearing be held pursuant to Section 366.26 in order to
24 determine whether adoption, or, in the case of an Indian child,
25 tribal customary adoption, guardianship, or long-term foster care
26 is the most appropriate plan for the child. On and after January 1,
27 2012, a hearing pursuant to Section 366.26 shall not be ordered if
28 the child is a nonminor dependent. However, if the court finds by
29 clear and convincing evidence, based on the evidence already
30 presented to it, including a recommendation by the State
31 Department of Social Services when it is acting as an adoption
32 agency in counties that are not served by a county adoption agency
33 or by a licensed county adoption agency, that there is a compelling
34 reason, as described in paragraph (3) of subdivision (g) of Section
35 366.21, for determining that a hearing held under Section 366.26
36 is not in the best interest of the child because the child is not a
37 proper subject for adoption or, in the case of an Indian child, tribal
38 customary adoption, and has no one willing to accept legal
39 guardianship, then the court may, only under these circumstances,
40 order that the child remain in long-term foster care. On and after

1 January 1, 2012, the nonminor dependent's legal status as an adult
2 is in and of itself a compelling reason not to hold a hearing pursuant
3 to Section 366.26. The court may order that a nonminor dependent
4 who otherwise meets the criteria described in Section 11403 remain
5 in a planned, permanent living arrangement. If the court orders
6 that a child who is 10 years of age or older remain in long-term
7 foster care, the court shall determine whether the agency has made
8 reasonable efforts to maintain the child's relationships with
9 individuals other than the child's siblings who are important to the
10 child, consistent with the child's best interests, and may make any
11 appropriate order to ensure that those relationships are maintained.
12 The hearing shall be held no later than 120 days from the date of
13 the subsequent permanency review hearing. The court shall also
14 order termination of reunification services to the parent or legal
15 guardian. The court shall continue to permit the parent or legal
16 guardian to visit the child unless it finds that visitation would be
17 detrimental to the child. The court shall determine whether
18 reasonable services have been offered or provided to the parent or
19 legal guardian. For purposes of this subdivision, evidence of any
20 of the following circumstances shall not, in and of themselves, be
21 deemed a failure to provide or offer reasonable services:

22 (A) The child has been placed with a foster family that is eligible
23 to adopt a child, or has been placed in a preadoptive home.

24 (B) The case plan includes services to make and finalize a
25 permanent placement for the child if efforts to reunify fail.

26 (C) Services to make and finalize a permanent placement for
27 the child, if efforts to reunify fail, are provided concurrently with
28 services to reunify the family.

29 (b) (1) Whenever a court orders that a hearing pursuant to
30 Section 366.26 shall be held, it shall direct the agency supervising
31 the child and the licensed county adoption agency, or the State
32 Department of Social Services when it is acting as an adoption
33 agency in counties that are not served by a county adoption agency,
34 to prepare an assessment that shall include:

35 (A) Current search efforts for an absent parent or parents.

36 (B) A review of the amount of, and nature of, any contact
37 between the child and his or her parents and other members of his
38 or her extended family since the time of placement. Although the
39 extended family of each child shall be reviewed on a case-by-case
40 basis, "extended family" for the purposes of this paragraph shall

1 include, but not be limited to, the child's siblings, grandparents,
2 aunts, and uncles.

3 (C) An evaluation of the child's medical, developmental,
4 scholastic, mental, and emotional status.

5 (D) A preliminary assessment of the eligibility and commitment
6 of any identified prospective adoptive parent or legal guardian,
7 including a prospective tribal customary adoptive parent,
8 particularly the caretaker, to include a social history including
9 screening for criminal records and prior referrals for child abuse
10 or neglect, the capability to meet the child's needs, and the
11 understanding of the legal and financial rights and responsibilities
12 of adoption and guardianship. If a proposed legal guardian is a
13 relative of the minor, the assessment shall also consider, but need
14 not be limited to, all of the factors specified in subdivision (a) of
15 Section 361.3 and in Section 361.4.

16 (E) The relationship of the child to any identified prospective
17 adoptive parent or legal guardian, including a prospective tribal
18 customary adoptive parent, the duration and character of the
19 relationship, the degree of attachment of the child to the prospective
20 relative guardian or adoptive parent, the relative's or adoptive
21 parent's strong commitment to caring permanently for the child,
22 the motivation for seeking adoption or legal guardianship, a
23 statement from the child concerning placement and the adoption
24 or legal guardianship, and whether the child, if over 12 years of
25 age, has been consulted about the proposed relative guardianship
26 arrangements, unless the child's age or physical, emotional, or
27 other condition precludes his or her meaningful response, and if
28 so, a description of the condition.

29 (F) An analysis of the likelihood that the child will be adopted
30 if parental rights are terminated.

31 (G) In the case of an Indian child, in addition to subparagraphs
32 (A) to (F), inclusive, an assessment of the likelihood that the child
33 will be adopted, when, in consultation with the child's tribe, a
34 customary tribal adoption, as defined in Section 366.24, is
35 recommended. If tribal customary adoption is recommended, the
36 assessment shall include an analysis of both of the following:

37 (i) Whether tribal customary adoption would or would not be
38 detrimental to the Indian child and the reasons for reaching that
39 conclusion.

(ii) Whether the Indian child cannot or should not be returned to the home of the Indian parent or Indian custodian and the reasons for reaching that conclusion.

(2) (A) A relative caregiver's preference for legal guardianship over adoption, if it is due to circumstances that do not include an unwillingness to accept legal or financial responsibility for the child, shall not constitute the sole basis for recommending removal of the child from the relative caregiver for purposes of adoptive placement.

(B) A relative caregiver shall be given information regarding the permanency options of guardianship and adoption, including the long-term benefits and consequences of each option, prior to establishing legal guardianship or pursuing adoption.

(c) If, at any hearing held pursuant to Section 366.26, a guardianship is established for the minor with an approved relative caregiver, and juvenile court dependency is subsequently dismissed, the minor shall be eligible for aid under the Kin-GAP Program, as provided for in Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385), as applicable, of Chapter 2 of Part 3 of Division 9.

(d) As used in this section, "relative" means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand," or the spouse of any of those persons even if the marriage was terminated by death or dissolution.

(e) The implementation and operation of subdivision (a) enacted at the 2005–06 Regular Session shall be subject to appropriation through the budget process and by phase, as provided in Section 366.35.

(f) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 21. Section 366.25 of the Welfare and Institutions Code, as added by Section 14 of Chapter 287 of the Statutes of 2009, is amended to read:

366.25. (a) (1) When a case has been continued pursuant to subdivision (b) of Section 366.22, the subsequent permanency review hearing shall occur within 24 months after the date the child was originally removed from the physical custody of his or

her parent or legal guardian. The court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. At the subsequent permanency review hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child's removal to the extent that the criminal record is substantially related to the welfare of the child or parent or legal guardian's ability to exercise custody and control regarding his or her child provided that the parent or legal guardian agreed to submit fingerprint images to obtain criminal history information as part of the case plan. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself of services provided; and shall make appropriate findings pursuant to subdivision (a) of Section 366.

(2) Whether or not the child is returned to his or her parent or legal guardian, the court shall specify the factual basis for its decision. If the child is not returned to a parent or legal guardian, the court shall specify the factual basis for its conclusion that return would be detrimental. If the child is not returned to his or her parents or legal guardian, the court shall consider and state for the record, in-state and out-of-state options for the child's permanent placement. If the child is placed out of the state, the court shall make a determination whether the out-of-state placement continues to be appropriate and in best interests of the child.

(3) If the child is not returned to a parent or legal guardian at the subsequent permanency review hearing, the court shall order that a hearing be held pursuant to Section 366.26 in order to determine whether adoption, guardianship, or long-term foster

1 care is the most appropriate plan for the child. On and after January
2 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered
3 if the child is a nonminor dependent. However, if the court finds
4 by clear and convincing evidence, based on the evidence already
5 presented to it, including a recommendation by the State
6 Department of Social Services when it is acting as an adoption
7 agency in counties that are not served by a county adoption agency
8 or by a licensed county adoption agency, that there is a compelling
9 reason, as described in paragraph (3) of subdivision (g) of Section
10 366.21, for determining that a hearing held under Section 366.26
11 is not in the best interest of the child because the child is not a
12 proper subject for adoption and has no one willing to accept legal
13 guardianship, then the court may, only under these circumstances,
14 order that the child remain in long-term foster care. On and after
15 January 1, 2012, the nonminor dependent's legal status as an adult
16 is in and of itself a compelling reason not to hold a hearing pursuant
17 to Section 366.26. The court may order that a nonminor dependent
18 who otherwise meets the criterion criteria described in Section
19 11403 remain in a planned, permanent living arrangement. If the
20 court orders that a child who is 10 years of age or older remain in
21 long-term foster care, the court shall determine whether the agency
22 has made reasonable efforts to maintain the child's relationships
23 with individuals other than the child's siblings who are important
24 to the child, consistent with the child's best interests, and may
25 make any appropriate order to ensure that those relationships are
26 maintained. The hearing shall be held no later than 120 days from
27 the date of the subsequent permanency review hearing. The court
28 shall also order termination of reunification services to the parent
29 or legal guardian. The court shall continue to permit the parent or
30 legal guardian to visit the child unless it finds that visitation would
31 be detrimental to the child. The court shall determine whether
32 reasonable services have been offered or provided to the parent or
33 legal guardian. For purposes of this subdivision, evidence of any
34 of the following circumstances shall not, in and of themselves, be
35 deemed a failure to provide or offer reasonable services:

36 (A) The child has been placed with a foster family that is eligible
37 to adopt a child, or has been placed in a preadoptive home.

38 (B) The case plan includes services to make and finalize a
39 permanent placement for the child if efforts to reunify fail.

1 (C) Services to make and finalize a permanent placement for
2 the child, if efforts to reunify fail, are provided concurrently with
3 services to reunify the family.

4 (b) (1) Whenever a court orders that a hearing pursuant to
5 Section 366.26 shall be held, it shall direct the agency supervising
6 the child and the licensed county adoption agency, or the State
7 Department of Social Services when it is acting as an adoption
8 agency in counties that are not served by a county adoption agency,
9 to prepare an assessment that shall include:

10 (A) Current search efforts for an absent parent or parents.

11 (B) A review of the amount of, and nature of, any contact
12 between the child and his or her parents and other members of his
13 or her extended family since the time of placement. Although the
14 extended family of each child shall be reviewed on a case-by-case
15 basis, “extended family” for the purposes of this paragraph shall
16 include, but not be limited to, the child’s siblings, grandparents,
17 aunts, and uncles.

18 (C) An evaluation of the child’s medical, developmental,
19 scholastic, mental, and emotional status.

20 (D) A preliminary assessment of the eligibility and commitment
21 of any identified prospective adoptive parent or legal guardian,
22 particularly the caretaker, to include a social history including
23 screening for criminal records and prior referrals for child abuse
24 or neglect, the capability to meet the child’s needs, and the
25 understanding of the legal and financial rights and responsibilities
26 of adoption and guardianship. If a proposed legal guardian is a
27 relative of the minor, the assessment shall also consider, but need
28 not be limited to, all of the factors specified in subdivision (a) of
29 Section 361.3 and in Section 361.4.

30 (E) The relationship of the child to any identified prospective
31 adoptive parent or legal guardian, the duration and character of
32 the relationship, the degree of attachment of the child to the
33 prospective relative guardian or adoptive parent, the relative’s or
34 adoptive parent’s strong commitment to caring permanently for
35 the child, the motivation for seeking adoption or legal guardianship,
36 a statement from the child concerning placement and the adoption
37 or legal guardianship, and whether the child, if over 12 years of
38 age, has been consulted about the proposed relative guardianship
39 arrangements, unless the child’s age or physical, emotional, or

1 other condition precludes his or her meaningful response, and if
2 so, a description of the condition.

3 (F) An analysis of the likelihood that the child will be adopted
4 if parental rights are terminated.

5 (2) (A) A relative caregiver's preference for legal guardianship
6 over adoption, if it is due to circumstances that do not include an
7 unwillingness to accept legal or financial responsibility for the
8 child, shall not constitute the sole basis for recommending removal
9 of the child from the relative caregiver for purposes of adoptive
10 placement.

11 (B) A relative caregiver shall be given information regarding
12 the permanency options of guardianship and adoption, including
13 the long-term benefits and consequences of each option, prior to
14 establishing legal guardianship or pursuing adoption.

15 (c) If, at any hearing held pursuant to Section 366.26, a
16 guardianship is established for the minor with an approved relative
17 caregiver, and juvenile court dependency is subsequently
18 dismissed, the minor shall be eligible for aid under the Kin-GAP
19 Program, as provided for in Article 4.5 (commencing with Section
20 11360) or Article 4.7 (commencing with Section 11385), as
21 applicable, of Chapter 2 of Part 3 of Division 9.

22 (d) As used in this section, "relative" means an adult who is
23 related to the minor by blood, adoption, or affinity within the fifth
24 degree of kinship, including stepparents, stepsiblings, and all
25 relatives whose status is preceded by the words "great,"
26 "great-great," or "grand," or the spouse of any of those persons
27 even if the marriage was terminated by death or dissolution.

28 (e) The implementation and operation of subdivision (a) enacted
29 at the 2005–06 Regular Session shall be subject to appropriation
30 through the budget process and by phase, as provided in Section
31 366.35.

32 (f) This section shall become operative on January 1, 2014.

33 SEC. 22. Section 366.3 of the Welfare and Institutions Code,
34 as amended by Section 17 of Chapter 287 of the Statutes of 2009,
35 is amended to read:

36 366.3. (a) If a juvenile court orders a permanent plan of
37 adoption, tribal customary adoption, or legal guardianship pursuant
38 to Section 360 or 366.26, the court shall retain jurisdiction over
39 the child until the child is adopted or the legal guardianship is
40 established, except as provided for in Section 366.29 or, on and

1 after January 1, 2012, Section 366.31. The status of the child shall
2 be reviewed every six months to ensure that the adoption or legal
3 guardianship is completed as expeditiously as possible. When the
4 adoption of the child has been granted, or in the case of a tribal
5 customary adoption, when the tribal customary adoption order has
6 been afforded full faith and credit and the petition for adoption
7 has been granted, the court shall terminate its jurisdiction over the
8 child. Following establishment of a legal guardianship, the court
9 may continue jurisdiction over the child as a dependent child of
10 the juvenile court or may terminate its dependency jurisdiction
11 and retain jurisdiction over the child as a ward of the legal
12 guardianship, as authorized by Section 366.4. If, however, a relative
13 of the child is appointed the legal guardian of the child and the
14 child has been placed with the relative for at least six months, the
15 court shall, except if the relative guardian objects, or upon a finding
16 of exceptional circumstances, terminate its dependency jurisdiction
17 and retain jurisdiction over the child as a ward of the guardianship,
18 as authorized by Section 366.4. Following a termination of parental
19 rights, the parent or parents shall not be a party to, or receive notice
20 of, any subsequent proceedings regarding the child.

21 (b) If the court has dismissed dependency jurisdiction following
22 the establishment of a legal guardianship, or no dependency
23 jurisdiction attached because of the granting of a legal guardianship
24 pursuant to Section 360, and the legal guardianship is subsequently
25 revoked or otherwise terminated, the county department of social
26 services or welfare department shall notify the juvenile court of
27 this fact. The court may vacate its previous order dismissing
28 dependency jurisdiction over the child.

29 Notwithstanding Section 1601 of the Probate Code, the
30 proceedings to terminate a legal guardianship that has been granted
31 pursuant to Section 360 or 366.26 shall be held either in the
32 juvenile court that retains jurisdiction over the guardianship as
33 authorized by Section 366.4 or the juvenile court in the county
34 where the guardian and child currently reside, based on the best
35 interests of the child, unless the termination is due to the
36 emancipation or adoption of the child. The juvenile court having
37 jurisdiction over the guardianship shall receive notice from the
38 court in which the petition is filed within five calendar days of the
39 filing. Prior to the hearing on a petition to terminate legal
40 guardianship pursuant to this subdivision, the court shall order the

1 county department of social services or welfare department having
2 jurisdiction or jointly with the county department where the
3 guardian and child currently reside to prepare a report, for the
4 court's consideration, that shall include an evaluation of whether
5 the child could safely remain in, or be returned to, the legal
6 guardian's home, without terminating the legal guardianship, if
7 services were provided to the child or legal guardian. If applicable,
8 the report shall also identify recommended family maintenance or
9 reunification services to maintain the legal guardianship and set
10 forth a plan for providing those services. If the petition to terminate
11 legal guardianship is granted, either juvenile court may resume
12 dependency jurisdiction over the child, and may order the county
13 department of social services or welfare department to develop a
14 new permanent plan, which shall be presented to the court within
15 60 days of the termination. If no dependency jurisdiction has
16 attached, the social worker shall make any investigation he or she
17 deems necessary to determine whether the child may be within the
18 jurisdiction of the juvenile court, as provided in Section 328.

19 Unless the parental rights of the child's parent or parents have
20 been terminated, they shall be notified that the legal guardianship
21 has been revoked or terminated and shall be entitled to participate
22 in the new permanency planning hearing. The court shall try to
23 place the child in another permanent placement. At the hearing,
24 the parents may be considered as custodians but the child shall not
25 be returned to the parent or parents unless they prove, by a
26 preponderance of the evidence, that reunification is the best
27 alternative for the child. The court may, if it is in the best interests
28 of the child, order that reunification services again be provided to
29 the parent or parents.

30 (c) If, following the establishment of a legal guardianship, the
31 county welfare department becomes aware of changed
32 circumstances that indicate adoption or, for an Indian child, tribal
33 customary adoption, may be an appropriate plan for the child, the
34 department shall so notify the court. The court may vacate its
35 previous order dismissing dependency jurisdiction over the child
36 and order that a hearing be held pursuant to Section 366.26 to
37 determine whether adoption or continued legal guardianship is the
38 most appropriate plan for the child. The hearing shall be held no
39 later than 120 days from the date of the order. If the court orders
40 that a hearing shall be held pursuant to Section 366.26, the court

1 shall direct the agency supervising the child and the licensed county
2 adoption agency, or the State Department of Social Services if it
3 is acting as an adoption agency in counties that are not served by
4 a county adoption agency, to prepare an assessment under
5 subdivision (b) of Section 366.22.

6 (d) If the child or, on and after January 1, 2012, nonminor
7 dependent is in a placement other than the home of a legal guardian
8 and jurisdiction has not been dismissed, the status of the child shall
9 be reviewed at least every six months. The review of the status of
10 a child for whom the court has ordered parental rights terminated
11 and who has been ordered placed for adoption shall be conducted
12 by the court. The review of the status of a child or, on and after
13 January 1, 2012, nonminor dependent for whom the court has not
14 ordered parental rights terminated and who has not been ordered
15 placed for adoption may be conducted by the court or an
16 appropriate local agency. The court shall conduct the review under
17 the following circumstances:

18 (1) Upon the request of the child's parents or legal guardians.

19 (2) Upon the request of the child or, on and after January 1,
20 2012, nonminor dependent.

21 (3) It has been 12 months since a hearing held pursuant to
22 Section 366.26 or an order that the child remain in long-term foster
23 care pursuant to Section 366.21, 366.22, 366.25, 366.26, or
24 subdivision (h).

25 (4) It has been 12 months since a review was conducted by the
26 court.

27 The court shall determine whether or not reasonable efforts to
28 make and finalize a permanent placement for the child have been
29 made.

30 (e) Except as provided in subdivision (g), at the review held
31 every six months pursuant to subdivision (d), the reviewing body
32 shall inquire about the progress being made to provide a permanent
33 home for the child, shall consider the safety of the child, and shall
34 determine all of the following:

35 (1) The continuing necessity for, and appropriateness of, the
36 placement.

37 (2) Identification of individuals other than the child's siblings
38 who are important to a child who is 10 years of age or older and
39 has been in out-of-home placement for six months or longer, and
40 actions necessary to maintain the child's relationship with those

1 individuals, provided that those relationships are in the best interest
2 of the child. The social worker shall ask every child who is 10
3 years of age or older and who has been in out-of-home placement
4 for six months or longer to identify individuals other than the
5 child's siblings who are important to the child, and may ask any
6 other child to provide that information, as appropriate. The social
7 worker shall make efforts to identify other individuals who are
8 important to the child, consistent with the child's best interests.

9 (3) The continuing appropriateness and extent of compliance
10 with the permanent plan for the child, including efforts to maintain
11 relationships between a child who is 10 years of age or older and
12 who has been in out-of-home placement for six months or longer
13 and individuals who are important to the child and efforts to
14 identify a prospective adoptive parent or legal guardian, including,
15 but not limited to, child-specific recruitment efforts and listing on
16 an adoption exchange.

17 (4) The extent of the agency's compliance with the child welfare
18 services case plan in making reasonable efforts either to return the
19 child to the safe home of the parent or to complete whatever steps
20 are necessary to finalize the permanent placement of the child. If
21 the reviewing body determines that a second period of reunification
22 services is in the child's best interests, and that there is a significant
23 likelihood of the child's return to a safe home due to changed
24 circumstances of the parent, pursuant to subdivision (f), the specific
25 reunification services required to effect the child's return to a safe
26 home shall be described.

27 (5) Whether there should be any limitation on the right of the
28 parent or guardian to make educational decisions for the child.
29 That limitation shall be specifically addressed in the court order
30 and may not exceed what is necessary to protect the child. If the
31 court specifically limits the right of the parent or guardian to make
32 educational decisions for the child, the court shall at the same time
33 appoint a responsible adult to make educational decisions for the
34 child pursuant to Section 361.

35 (6) The adequacy of services provided to the child. The court
36 shall consider the progress in providing the information and
37 documents to the child, as described in Section 391. The court
38 shall also consider the need for, and progress in providing, the
39 assistance and services described in Section 391.

1 (7) The extent of progress the parents or legal guardians have
2 made toward alleviating or mitigating the causes necessitating
3 placement in foster care.

4 (8) The likely date by which the child may be returned to, and
5 safely maintained in, the home, placed for adoption, legal
6 guardianship, in another planned permanent living arrangement,
7 or, for an Indian child, in consultation with the child's tribe, placed
8 for tribal customary adoption.

9 (9) Whether the child has any siblings under the court's
10 jurisdiction, and, if any siblings exist, all of the following:

11 (A) The nature of the relationship between the child and his or
12 her siblings.

13 (B) The appropriateness of developing or maintaining the sibling
14 relationships pursuant to Section 16002.

15 (C) If the siblings are not placed together in the same home,
16 why the siblings are not placed together and what efforts are being
17 made to place the siblings together, or why those efforts are not
18 appropriate.

19 (D) If the siblings are not placed together, the frequency and
20 nature of the visits between siblings.

21 (E) The impact of the sibling relationships on the child's
22 placement and planning for legal permanence.

23 The factors the court may consider as indicators of the nature of
24 the child's sibling relationships include, but are not limited to,
25 whether the siblings were raised together in the same home,
26 whether the siblings have shared significant common experiences
27 or have existing close and strong bonds, whether either sibling
28 expresses a desire to visit or live with his or her sibling, as
29 applicable, and whether ongoing contact is in the child's best
30 emotional interests.

31 (10) For a child who is 16 years of age or older, and, effective
32 January 1, 2012, for a nonminor dependent, the services needed
33 to assist the child or nonminor dependent to make the transition
34 from foster care to independent living.

35 The reviewing body shall determine whether or not reasonable
36 efforts to make and finalize a permanent placement for the child
37 have been made.

38 Each licensed foster family agency shall submit reports for each
39 child in its care, custody, and control to the court concerning the
40 continuing appropriateness and extent of compliance with the

1 child's permanent plan, the extent of compliance with the case
2 plan, and the type and adequacy of services provided to the child.

3 (f) Unless their parental rights have been permanently
4 terminated, the parent or parents of the child are entitled to receive
5 notice of, and participate in, those hearings. It shall be presumed
6 that continued care is in the best interests of the child, unless the
7 parent or parents prove, by a preponderance of the evidence, that
8 further efforts at reunification are the best alternative for the child.
9 In those cases, the court may order that further reunification
10 services to return the child to a safe home environment be provided
11 to the parent or parents up to a period of six months, and family
12 maintenance services, as needed for an additional six months in
13 order to return the child to a safe home environment. On and after
14 January 1, 2012, this subdivision shall not apply to the parents of
15 a nonminor dependent.

16 (g) At the review conducted by the court and held at least every
17 six months, regarding a child for whom the court has ordered
18 parental rights terminated and who has been ordered placed for
19 adoption, or, for an Indian child for whom parental rights are not
20 being terminated and a tribal customary adoption is being
21 considered, the county welfare department shall prepare and present
22 to the court a report describing the following:

23 (1) The child's present placement.

24 (2) The child's current physical, mental, emotional, and
25 educational status.

26 (3) If the child has not been placed with a prospective adoptive
27 parent or guardian, identification of individuals, other than the
28 child's siblings, who are important to the child and actions
29 necessary to maintain the child's relationship with those
30 individuals, provided that those relationships are in the best interest
31 of the child. The agency shall ask every child who is 10 years of
32 age or older to identify any individuals who are important to him
33 or her, consistent with the child's best interest, and may ask any
34 child who is younger than 10 years of age to provide that
35 information as appropriate. The agency shall make efforts to
36 identify other individuals who are important to the child.

37 (4) Whether the child has been placed with a prospective
38 adoptive parent or parents.

39 (5) Whether an adoptive placement agreement has been signed
40 and filed.

1 (6) If the child has not been placed with a prospective adoptive
2 parent or parents, the efforts made to identify an appropriate
3 prospective adoptive parent or legal guardian, including, but not
4 limited to, child-specific recruitment efforts and listing on an
5 adoption exchange.

6 (7) Whether the final adoption order should include provisions
7 for postadoptive sibling contact pursuant to Section 366.29.

8 (8) The progress of the search for an adoptive placement if one
9 has not been identified.

10 (9) Any impediments to the adoption or the adoptive placement.

11 (10) The anticipated date by which the child will be adopted or
12 placed in an adoptive home.

13 (11) The anticipated date by which an adoptive placement
14 agreement will be signed.

15 (12) Recommendations for court orders that will assist in the
16 placement of the child for adoption or in the finalization of the
17 adoption.

18 The court shall determine whether or not reasonable efforts to
19 make and finalize a permanent placement for the child have been
20 made.

21 The court shall make appropriate orders to protect the stability
22 of the child and to facilitate and expedite the permanent placement
23 and adoption of the child.

24 (h) At the review held pursuant to subdivision (d) for a child in
25 long-term foster care, the court shall consider all permanency
26 planning options for the child including whether the child should
27 be returned to the home of the parent, placed for adoption, or, for
28 an Indian child, in consultation with the child's tribe, placed for
29 tribal customary adoption, or appointed a legal guardian, or, if
30 compelling reasons exist for finding that none of the foregoing
31 options are in the best interest of the child, whether the child should
32 be placed in another planned permanent living arrangement. The
33 court shall order that a hearing be held pursuant to Section 366.26,
34 unless it determines by clear and convincing evidence that there
35 is a compelling reason for determining that a hearing held pursuant
36 to Section 366.26 is not in the best interest of the child because
37 the child is being returned to the home of the parent, the child is
38 not a proper subject for adoption, or no one is willing to accept
39 legal guardianship. If the licensed county adoption agency, or the
40 department when it is acting as an adoption agency in counties

1 that are not served by a county adoption agency, has determined
2 it is unlikely that the child will be adopted or one of the conditions
3 described in paragraph (1) of subdivision (c) of Section 366.26
4 applies, that fact shall constitute a compelling reason for purposes
5 of this subdivision. Only upon that determination may the court
6 order that the child remain in long-term foster care, without holding
7 a hearing pursuant to Section 366.26. On and after January 1, 2012,
8 the nonminor dependent's legal status as an adult is in and of itself
9 a compelling reason not to hold a hearing pursuant to Section
10 366.26.

11 (i) If, as authorized by subdivision (h), the court orders a hearing
12 pursuant to Section 366.26, the court shall direct the agency
13 supervising the child and the licensed county adoption agency, or
14 the State Department of Social Services when it is acting as an
15 adoption agency in counties that are not served by a county
16 adoption agency, to prepare an assessment as provided for in
17 subdivision (i) of Section 366.21 or subdivision (b) of Section
18 366.22. A hearing held pursuant to Section 366.26 shall be held
19 no later than 120 days from the date of the 12-month review at
20 which it is ordered, and at that hearing the court shall determine
21 whether adoption, tribal customary adoption, legal guardianship,
22 or long-term foster care is the most appropriate plan for the child.
23 On and after January 1, 2012, a hearing pursuant to Section 366.26
24 shall not be ordered if the child is a nonminor dependent. The court
25 may order that a nonminor dependent who otherwise meets the
26 criteria described in Section 11403 remain in a planned, permanent
27 living arrangement.

28 (j) The implementation and operation of the amendments to
29 subdivision (e) enacted at the 2005–06 Regular Session shall be
30 subject to appropriation through the budget process and by phase,
31 as provided in Section 366.35.

32 (k) The reviews conducted pursuant to subdivision (a) or (d)
33 may be conducted earlier than every six months if the court
34 determines that an earlier review is in the best interests of the child
35 or as court rules prescribe.

36 (l) On and after January 1, 2012, at the review hearing that
37 occurs in the six-month period prior to the minor's attaining 18
38 years of age, and at every subsequent review hearing for the
39 nonminor dependent, the report shall describe all of the following:

1 (1) The minor's or nonminor dependent's plans to remain in
2 foster care and plans to meet one or more of the criteria as
3 described in Section 11403 to continue to receive AFDC-FC
4 benefits.

5 (2) The efforts made and assistance provided to the minor or
6 nonminor dependent by the social worker or the probation officer
7 so that the minor or nonminor dependent will be able to meet the
8 criteria.

9 (3) Efforts toward completing the items described in paragraph
10 (2) of subdivision (e) of Section 391.

11 (m) On and after January 1, 2012, the reviews conducted
12 pursuant to subdivisions (e) and (h) for any nonminor dependent
13 shall be conducted in a manner that respects the nonminor's status
14 as a legal adult, be focused on the goals and services described in
15 the youth's transitional independent living case plan, including
16 efforts made to achieve permanence, including maintaining or
17 obtaining permanent connections with caring and committed adults,
18 and attended as appropriate by additional participants invited by
19 the nonminor dependent. The review shall include all the issues
20 in subdivision (e), except paragraph (5) of subdivision (e). The
21 county child welfare or probation department, or Indian tribe that
22 has entered into an agreement pursuant to Section 10553.1 shall
23 prepare and present to the court a report that addresses the youth's
24 progress in meeting the goals in the transitional independent living
25 case plan and propose modifications as necessary to further those
26 goals. The report shall document that the nonminor has received
27 all the information and documentation described in paragraph (2)
28 of subdivision (e) of Section 391. If the court is considering
29 terminating dependency jurisdiction for a nonminor dependent it
30 shall first hold a hearing pursuant to Section 391.

31 (n) On and after January 1, 2012, if a review hearing pursuant
32 to this section is the last review hearing to be held before the child
33 attains 18 years of age, the court shall ensure that the child's
34 transitional independent living case plan includes a plan for the
35 child to meet one or more of the criteria in Section 11403 so that
36 the child can become a nonminor dependent, and that the child has
37 been informed of his or her right to seek the termination of
38 dependency jurisdiction pursuant to Section 391.

1 (o) This section shall remain in effect only until January 1, 2014,
2 and as of that date is repealed, unless a later enacted statute, that
3 is enacted before January 1, 2014, deletes or extends that date.

4 SEC. 23. Section 366.3 of the Welfare and Institutions Code,
5 as added by Section 18 of Chapter 287 of the Statutes of 2009, is
6 amended to read:

7 366.3. (a) If a juvenile court orders a permanent plan of
8 adoption or legal guardianship pursuant to Section 360 or 366.26,
9 the court shall retain jurisdiction over the child until the child is
10 adopted or the legal guardianship is established, except as provided
11 for in Section 366.29 or, on and after January 1, 2012, Section
12 366.31. The status of the child shall be reviewed every six months
13 to ensure that the adoption or legal guardianship is completed as
14 expeditiously as possible. When the adoption of the child has been
15 granted, the court shall terminate its jurisdiction over the child.
16 Following establishment of a legal guardianship, the court may
17 continue jurisdiction over the child as a dependent child of the
18 juvenile court or may terminate its dependency jurisdiction and
19 retain jurisdiction over the child as a ward of the legal guardianship,
20 as authorized by Section 366.4. If, however, a relative of the child
21 is appointed the legal guardian of the child and the child has been
22 placed with the relative for at least six months, the court shall,
23 except if the relative guardian objects, or upon a finding of
24 exceptional circumstances, terminate its dependency jurisdiction
25 and retain jurisdiction over the child as a ward of the guardianship,
26 as authorized by Section 366.4. Following a termination of parental
27 rights, the parent or parents shall not be a party to, or receive notice
28 of, any subsequent proceedings regarding the child.

29 (b) If the court has dismissed dependency jurisdiction following
30 the establishment of a legal guardianship, or no dependency
31 jurisdiction attached because of the granting of a legal guardianship
32 pursuant to Section 360, and the legal guardianship is subsequently
33 revoked or otherwise terminated, the county department of social
34 services or welfare department shall notify the juvenile court of
35 this fact. The court may vacate its previous order dismissing
36 dependency jurisdiction over the child.

37 Notwithstanding Section 1601 of the Probate Code, the
38 proceedings to terminate a legal guardianship that has been granted
39 pursuant to Section 360 or 366.26 shall be held either in the
40 juvenile court that retains jurisdiction over the guardianship as

1 authorized by Section 366.4 or the juvenile court in the county
2 where the guardian and child currently reside, based on the best
3 interests of the child, unless the termination is due to the
4 emancipation or adoption of the child. The juvenile court having
5 jurisdiction over the guardianship shall receive notice from the
6 court in which the petition is filed within five calendar days of the
7 filing. Prior to the hearing on a petition to terminate legal
8 guardianship pursuant to this subdivision, the court shall order the
9 county department of social services or welfare department having
10 jurisdiction or jointly with the county department where the
11 guardian and child currently reside to prepare a report, for the
12 court's consideration, that shall include an evaluation of whether
13 the child could safely remain in, or be returned to, the legal
14 guardian's home, without terminating the legal guardianship, if
15 services were provided to the child or legal guardian. If applicable,
16 the report shall also identify recommended family maintenance or
17 reunification services to maintain the legal guardianship and set
18 forth a plan for providing those services. If the petition to terminate
19 legal guardianship is granted, either juvenile court may resume
20 dependency jurisdiction over the child, and may order the county
21 department of social services or welfare department to develop a
22 new permanent plan, which shall be presented to the court within
23 60 days of the termination. If no dependency jurisdiction has
24 attached, the social worker shall make any investigation he or she
25 deems necessary to determine whether the child may be within the
26 jurisdiction of the juvenile court, as provided in Section 328.

27 Unless the parental rights of the child's parent or parents have
28 been terminated, they shall be notified that the legal guardianship
29 has been revoked or terminated and shall be entitled to participate
30 in the new permanency planning hearing. The court shall try to
31 place the child in another permanent placement. At the hearing,
32 the parents may be considered as custodians but the child shall not
33 be returned to the parent or parents unless they prove, by a
34 preponderance of the evidence, that reunification is the best
35 alternative for the child. The court may, if it is in the best interests
36 of the child, order that reunification services again be provided to
37 the parent or parents.

38 (c) If, following the establishment of a legal guardianship, the
39 county welfare department becomes aware of changed
40 circumstances that indicate adoption may be an appropriate plan

1 for the child, the department shall so notify the court. The court
2 may vacate its previous order dismissing dependency jurisdiction
3 over the child and order that a hearing be held pursuant to Section
4 366.26 to determine whether adoption or continued legal
5 guardianship is the most appropriate plan for the child. The hearing
6 shall be held no later than 120 days from the date of the order. If
7 the court orders that a hearing shall be held pursuant to Section
8 366.26, the court shall direct the agency supervising the child and
9 the licensed county adoption agency, or the State Department of
10 Social Services if it is acting as an adoption agency in counties
11 that are not served by a county adoption agency, to prepare an
12 assessment under subdivision (b) of Section 366.22.

13 (d) If the child or, on and after January 1, 2012, nonminor
14 dependent is in a placement other than the home of a legal guardian
15 and jurisdiction has not been dismissed, the status of the child shall
16 be reviewed at least every six months. The review of the status of
17 a child for whom the court has ordered parental rights terminated
18 and who has been ordered placed for adoption shall be conducted
19 by the court. The review of the status of a child or, on and after
20 January 1, 2012, nonminor dependent for whom the court has not
21 ordered parental rights terminated and who has not been ordered
22 placed for adoption may be conducted by the court or an
23 appropriate local agency. The court shall conduct the review under
24 the following circumstances:

25 (1) Upon the request of the child's parents or legal guardians.

26 (2) Upon the request of the child or, on and after January 1,
27 2012, nonminor dependent.

28 (3) It has been 12 months since a hearing held pursuant to
29 Section 366.26 or an order that the child remain in long-term foster
30 care pursuant to Section 366.21, 366.22, 366.25, 366.26, or
31 subdivision (h).

32 (4) It has been 12 months since a review was conducted by the
33 court.

34 The court shall determine whether or not reasonable efforts to
35 make and finalize a permanent placement for the child have been
36 made.

37 (e) Except as provided in subdivision (g), at the review held
38 every six months pursuant to subdivision (d), the reviewing body
39 shall inquire about the progress being made to provide a permanent

1 home for the child, shall consider the safety of the child, and shall
2 determine all of the following:

3 (1) The continuing necessity for, and appropriateness of, the
4 placement.

5 (2) Identification of individuals other than the child's siblings
6 who are important to a child who is 10 years of age or older and
7 has been in out-of-home placement for six months or longer, and
8 actions necessary to maintain the child's relationship with those
9 individuals, provided that those relationships are in the best interest
10 of the child. The social worker shall ask every child who is 10
11 years of age or older and who has been in out-of-home placement
12 for six months or longer to identify individuals other than the
13 child's siblings who are important to the child, and may ask any
14 other child to provide that information, as appropriate. The social
15 worker shall make efforts to identify other individuals who are
16 important to the child, consistent with the child's best interests.

17 (3) The continuing appropriateness and extent of compliance
18 with the permanent plan for the child, including efforts to maintain
19 relationships between a child who is 10 years of age or older and
20 who has been in out-of-home placement for six months or longer
21 and individuals who are important to the child and efforts to
22 identify a prospective adoptive parent or legal guardian, including,
23 but not limited to, child-specific recruitment efforts and listing on
24 an adoption exchange.

25 (4) The extent of the agency's compliance with the child welfare
26 services case plan in making reasonable efforts either to return the
27 child to the safe home of the parent or to complete whatever steps
28 are necessary to finalize the permanent placement of the child. If
29 the reviewing body determines that a second period of reunification
30 services is in the child's best interests, and that there is a significant
31 likelihood of the child's return to a safe home due to changed
32 circumstances of the parent, pursuant to subdivision (f), the specific
33 reunification services required to effect the child's return to a safe
34 home shall be described.

35 (5) Whether there should be any limitation on the right of the
36 parent or guardian to make educational decisions for the child.
37 That limitation shall be specifically addressed in the court order
38 and may not exceed what is necessary to protect the child. If the
39 court specifically limits the right of the parent or guardian to make
40 educational decisions for the child, the court shall at the same time

1 appoint a responsible adult to make educational decisions for the
2 child pursuant to Section 361.

3 (6) The adequacy of services provided to the child. The court
4 shall consider the progress in providing the information and
5 documents to the child, as described in Section 391. The court
6 shall also consider the need for, and progress in providing, the
7 assistance and services described in Section 391.

8 (7) The extent of progress the parents or legal guardians have
9 made toward alleviating or mitigating the causes necessitating
10 placement in foster care.

11 (8) The likely date by which the child may be returned to, and
12 safely maintained in, the home, placed for adoption, legal
13 guardianship, or in another planned permanent living arrangement.

14 (9) Whether the child has any siblings under the court's
15 jurisdiction, and, if any siblings exist, all of the following:

16 (A) The nature of the relationship between the child and his or
17 her siblings.

18 (B) The appropriateness of developing or maintaining the sibling
19 relationships pursuant to Section 16002.

20 (C) If the siblings are not placed together in the same home,
21 why the siblings are not placed together and what efforts are being
22 made to place the siblings together, or why those efforts are not
23 appropriate.

24 (D) If the siblings are not placed together, the frequency and
25 nature of the visits between siblings.

26 (E) The impact of the sibling relationships on the child's
27 placement and planning for legal permanence.

28 The factors the court may consider as indicators of the nature of
29 the child's sibling relationships include, but are not limited to,
30 whether the siblings were raised together in the same home,
31 whether the siblings have shared significant common experiences
32 or have existing close and strong bonds, whether either sibling
33 expresses a desire to visit or live with his or her sibling, as
34 applicable, and whether ongoing contact is in the child's best
35 emotional interests.

36 (10) For a child who is 16 years of age or older, and, effective
37 January 1, 2012, for a nonminor dependent, the services needed
38 to assist the child or nonminor dependent to make the transition
39 from foster care to independent living.

1 The reviewing body shall determine whether or not reasonable
2 efforts to make and finalize a permanent placement for the child
3 have been made.

4 Each licensed foster family agency shall submit reports for each
5 child in its care, custody, and control to the court concerning the
6 continuing appropriateness and extent of compliance with the
7 child's permanent plan, the extent of compliance with the case
8 plan, and the type and adequacy of services provided to the child.

9 (f) Unless their parental rights have been permanently
10 terminated, the parent or parents of the child are entitled to receive
11 notice of, and participate in, those hearings. It shall be presumed
12 that continued care is in the best interests of the child, unless the
13 parent or parents prove, by a preponderance of the evidence, that
14 further efforts at reunification are the best alternative for the child.
15 In those cases, the court may order that further reunification
16 services to return the child to a safe home environment be provided
17 to the parent or parents up to a period of six months, and family
18 maintenance services, as needed for an additional six months in
19 order to return the child to a safe home environment.

20 (g) At the review conducted by the court and held at least every
21 six months, regarding a child for whom the court has ordered
22 parental rights terminated and who has been ordered placed for
23 adoption, the county welfare department shall prepare and present
24 to the court a report describing the following:

25 (1) The child's present placement.

26 (2) The child's current physical, mental, emotional, and
27 educational status.

28 (3) If the child has not been placed with a prospective adoptive
29 parent or guardian, identification of individuals, other than the
30 child's siblings, who are important to the child and actions
31 necessary to maintain the child's relationship with those
32 individuals, provided that those relationships are in the best interest
33 of the child. The agency shall ask every child who is 10 years of
34 age or older to identify any individuals who are important to him
35 or her, consistent with the child's best interest, and may ask any
36 child who is younger than 10 years of age to provide that
37 information as appropriate. The agency shall make efforts to
38 identify other individuals who are important to the child.

39 (4) Whether the child has been placed with a prospective
40 adoptive parent or parents.

1 (5) Whether an adoptive placement agreement has been signed
2 and filed.

3 (6) If the child has not been placed with a prospective adoptive
4 parent or parents, the efforts made to identify an appropriate
5 prospective adoptive parent or legal guardian, including, but not
6 limited to, child-specific recruitment efforts and listing on an
7 adoption exchange.

8 (7) Whether the final adoption order should include provisions
9 for postadoptive sibling contact pursuant to Section 366.29.

10 (8) The progress of the search for an adoptive placement if one
11 has not been identified.

12 (9) Any impediments to the adoption or the adoptive placement.

13 (10) The anticipated date by which the child will be adopted or
14 placed in an adoptive home.

15 (11) The anticipated date by which an adoptive placement
16 agreement will be signed.

17 (12) Recommendations for court orders that will assist in the
18 placement of the child for adoption or in the finalization of the
19 adoption.

20 The court shall determine whether or not reasonable efforts to
21 make and finalize a permanent placement for the child have been
22 made.

23 The court shall make appropriate orders to protect the stability
24 of the child and to facilitate and expedite the permanent placement
25 and adoption of the child.

26 (h) At the review held pursuant to subdivision (d) for a child in
27 long-term foster care, the court shall consider all permanency
28 planning options for the child including whether the child should
29 be returned to the home of the parent, placed for adoption, or
30 appointed a legal guardian, or, if compelling reasons exist for
31 finding that none of the foregoing options are in the best interest
32 of the child, whether the child should be placed in another planned
33 permanent living arrangement. The court shall order that a hearing
34 be held pursuant to Section 366.26, unless it determines by clear
35 and convincing evidence that there is a compelling reason for
36 determining that a hearing held pursuant to Section 366.26 is not
37 in the best interest of the child because the child is being returned
38 to the home of the parent, the child is not a proper subject for
39 adoption, or no one is willing to accept legal guardianship. If the
40 licensed county adoption agency, or the department when it is

1 acting as an adoption agency in counties that are not served by a
2 county adoption agency, has determined it is unlikely that the child
3 will be adopted or one of the conditions described in paragraph
4 (1) of subdivision (c) of Section 366.26 applies, that fact shall
5 constitute a compelling reason for purposes of this subdivision.
6 Only upon that determination may the court order that the child
7 remain in foster care, without holding a hearing pursuant to Section
8 366.26. On and after January 1, 2012, the nonminor dependent's
9 legal status as an adult is in and of itself a compelling reason not
10 to hold a hearing pursuant to Section 366.26.

11 (i) If, as authorized by subdivision (h), the court orders a hearing
12 pursuant to Section 366.26, the court shall direct the agency
13 supervising the child and the licensed county adoption agency, or
14 the State Department of Social Services when it is acting as an
15 adoption agency in counties that are not served by a county
16 adoption agency, to prepare an assessment as provided for in
17 subdivision (i) of Section 366.21 or subdivision (b) of Section
18 366.22. A hearing held pursuant to Section 366.26 shall be held
19 no later than 120 days from the date of the 12-month review at
20 which it is ordered, and at that hearing the court shall determine
21 whether adoption, legal guardianship, or long-term foster care is
22 the most appropriate plan for the child. On and after January 1,
23 2012, a hearing pursuant to Section 366.26 shall not be ordered if
24 the child is a nonminor dependent. The court may order that a
25 nonminor dependent who otherwise meets the criteria described
26 in Section 11403 remain in a planned, permanent living
27 arrangement.

28 (j) The implementation and operation of the amendments to
29 subdivision (e) enacted at the 2005–06 Regular Session shall be
30 subject to appropriation through the budget process and by phase,
31 as provided in Section 366.35.

32 (k) The reviews conducted pursuant to subdivision (a) or (d)
33 may be conducted earlier than every six months if the court
34 determines that an earlier review is in the best interests of the child
35 or as court rules prescribe.

36 (l) On and after October 1, 2012, at the review hearing that
37 occurs in the six-month period prior to the minor's attaining 18
38 years of age, and at every subsequent review hearing, the report
39 shall describe all of the following:

1 (1) The minor's plans to remain in foster care and plans to meet
2 one or more of the criteria as described in Section 11403 to
3 continue to receive AFDC-FC benefits.

4 (2) The efforts made and assistance provided to the minor by
5 the social worker or the probation officer so that the minor will be
6 able to meet the criteria.

7 (3) Efforts toward completing the items described in paragraph
8 (2) of subdivision (e) of Section 391.

9 (m) On and after January 1, 2012, the reviews conducted
10 pursuant to subdivisions (e) and (h) for any nonminor dependent
11 shall be conducted in a manner that respects the nonminor's status
12 as a legal adult, be focused on the goals and services described in
13 the youth's transitional independent living case plan, including
14 efforts made to maintain connections with caring and permanently
15 committed adults, and attended as appropriate by additional
16 participants invited by the nonminor dependent. The review shall
17 include all the issues in subdivision (e), except paragraph (5) of
18 subdivision (e). The county child welfare or probation department,
19 or Indian tribe that has entered into an agreement pursuant to
20 Section 10553.1 shall prepare and present to the court a report that
21 addresses the youth's progress in meeting the goals in the
22 transitional independent living case plan and propose modifications
23 as necessary to further those goals. The report shall document that
24 the nonminor has received all the information and documentation
25 described in paragraph (2) of subdivision (e) of Section 391. If the
26 court is considering terminating dependency jurisdiction for a
27 nonminor dependent it shall first hold a hearing pursuant to Section
28 391.

29 (n) On and after January 1, 2012, if a review hearing pursuant
30 to this section is the last review hearing to be held before the child
31 attains 18 years of age, the court shall ensure that the child's
32 transitional independent living case plan includes a plan for the
33 child to meet one or more of the criteria in Section 11403 so that
34 the child can become a nonminor dependent, and that the child has
35 been informed of his or her right to seek the termination of
36 dependency jurisdiction pursuant to Section 391.

37 (o) This section shall become operative on January 1, 2014.

38 SEC. 24. Section 366.31 is added to the Welfare and
39 Institutions Code, to read:

1 366.31. (a) On and after January 1, 2012, with respect to a
2 nonminor dependent, as defined in subdivision (v) of Section
3 11400, who has a permanent plan of long-term foster care that was
4 ordered pursuant to Section 366.21, 366.22, 366.25, or 366.26 the
5 court may continue jurisdiction of the nonminor as a dependent
6 of the juvenile court or may dismiss dependency jurisdiction
7 pursuant to Section 391.

8 (b) If the court continues dependency jurisdiction of the
9 nonminor as a dependent of the juvenile court, the court shall order
10 the development of a planned permanent living arrangement, which
11 may include continued placement with the current caregiver or
12 another licensed or approved caregiver or placement under a mutual
13 agreement pursuant to Section 11403, or in supervised independent
14 living, consistent with the youth's transitional independent living
15 case plan.

16 (c) If the court terminates its dependency jurisdiction over a
17 nonminor dependent pursuant to subdivision (a), it shall retain
18 jurisdiction over the youth pursuant to Section 303. If the court has
19 dismissed dependency jurisdiction pursuant to subdivision (d) of
20 Section 391, the nonminor dependent, who has not attained 21
21 years of age, may subsequently file a petition pursuant to
22 subdivision (e) of Section 388 to have dependency jurisdiction
23 resumed and the court may vacate its previous order dismissing
24 dependency jurisdiction over the nonminor dependent.

25 SEC. 25. Section 366.4 of the Welfare and Institutions Code
26 is amended to read:

27 366.4. (a) Any minor for whom a guardianship has been
28 established resulting from the selection or implementation of a
29 permanency plan pursuant to Section 360 or 366.26, or, on and
30 after the date that the director executes a declaration pursuant to
31 Section 11217, a nonminor who is eligible to receive Kin-GAP
32 payments pursuant to Section 11363 or, effective January 1, 2012,
33 Section 11386, or a nonminor former dependent child of the
34 juvenile court who is receiving AFDC-FC benefits pursuant to
35 Section 11405, is within the jurisdiction of the juvenile court. For
36 those minors, Part 2 (commencing with Section 1500) of Division
37 4 of the Probate Code, relating to guardianship, shall not apply. If
38 no specific provision of this code or the California Rules of Court
39 is applicable, the provisions applicable to the administration of
40 estates under Part 4 (commencing with Section 2100) of Division

1 4 of the Probate Code govern so far as they are applicable to like
2 situations.

3 (b) Nonrelated legal guardians of the person of a minor
4 established as a result of a permanency plan selected pursuant to
5 Section 360 or 366.26 shall be exempt from the provisions of
6 Sections 2850 and 2851 of the Probate Code.

7 SEC. 26. Section 388 of the Welfare and Institutions Code is
8 amended to read:

9 388. (a) Any parent or other person having an interest in a
10 child who is a dependent child of the juvenile court or the child
11 himself or herself through a properly appointed guardian may,
12 upon grounds of change of circumstance or new evidence, petition
13 the court in the same action in which the child was found to be a
14 dependent child of the juvenile court or in which a guardianship
15 was ordered pursuant to Section 360 for a hearing to change,
16 modify, or set aside any order of court previously made or to
17 terminate the jurisdiction of the court. The petition shall be verified
18 and, if made by a person other than the child, shall state the
19 petitioner's relationship to or interest in the child and shall set forth
20 in concise language any change of circumstance or new evidence
21 that are alleged to require the change of order or termination of
22 jurisdiction.

23 (b) Any person, including a child who is a dependent of the
24 juvenile court, may petition the court to assert a relationship as a
25 sibling related by blood, adoption, or affinity through a common
26 legal or biological parent to a child who is, or is the subject of a
27 petition for adjudication as, a dependent of the juvenile court, and
28 may request visitation with the dependent child, placement with
29 or near the dependent child, or consideration when determining
30 or implementing a case plan or permanent plan for the dependent
31 child or make any other request for an order which may be shown
32 to be in the best interest of the dependent child. The court may
33 appoint a guardian ad litem to file the petition for the dependent
34 child asserting the sibling relationship if the court determines that
35 the appointment is necessary for the best interests of the dependent
36 child. The petition shall be verified and shall set forth the
37 following:

38 (1) Through which parent he or she is related to the dependent
39 child.

1 (2) Whether he or she is related to the dependent child by blood,
2 adoption, or affinity.

3 (3) The request or order that the petitioner is seeking.

4 (4) Why that request or order is in the best interest of the
5 dependent child.

6 (c) (1) Any party, including a child who is a dependent of the
7 juvenile court, may petition the court, prior to the hearing set
8 pursuant to subdivision (f) of Section 366.21 for a child described
9 by subparagraph (A) of paragraph (1) of subdivision (a) of Section
10 361.5, or prior to the hearing set pursuant to subdivision (e) of
11 Section 366.21 for a child described by subparagraph (B) or (C)
12 of paragraph (1) of subdivision (a) of Section 361.5, to terminate
13 court-ordered reunification services provided under subdivision
14 (a) of Section 361.5 only if one of the following conditions exists:

15 (A) It appears that a change of circumstance or new evidence
16 exists that satisfies a condition set forth in subdivision (b) or (e)
17 of Section 361.5 justifying termination of court-ordered
18 reunification services.

19 (B) The action or inaction of the parent or guardian creates a
20 substantial likelihood that reunification will not occur, including,
21 but not limited to, the parent or guardian's failure to visit the child,
22 or the failure of the parent or guardian to participate regularly and
23 make substantive progress in a court-ordered treatment plan.

24 (2) In determining whether the parent or guardian has failed to
25 visit the child or participate regularly or make progress in the
26 treatment plan, the court shall consider factors including, but not
27 limited to, the parent or guardian's incarceration,
28 institutionalization, or participation in a residential substance abuse
29 treatment program.

30 (3) The court shall terminate reunification services during the
31 above-described time periods only upon a finding by a
32 preponderance of evidence that reasonable services have been
33 offered or provided, and upon a finding of clear and convincing
34 evidence that one of the conditions in subparagraph (A) or (B) of
35 paragraph (1) exists.

36 (4) If the court terminates reunification services, it shall order
37 that a hearing pursuant to Section 366.26 be held within 120 days.

38 (d) If it appears that the best interests of the child may be
39 promoted by the proposed change of order, recognition of a sibling
40 relationship, termination of jurisdiction, or clear and convincing

1 evidence supports revocation or termination of court-ordered
2 reunification services, the court shall order that a hearing be held
3 and shall give prior notice, or cause prior notice to be given, to the
4 persons and by the means prescribed by Section 386, and, in those
5 instances in which the means of giving notice is not prescribed by
6 those sections, then by means the court prescribes.

7 (e) (1) On and after January 1, 2012, a nonminor who has not
8 attained 19 years of age, or, commencing January 1, 2013, 20 years
9 of age, or, commencing January 1, 2014, 21 years of age, for whom
10 the court has dismissed dependency jurisdiction pursuant to Section
11 391 may petition the court in the same action in which the child
12 was found to be a dependent child of the juvenile court for a
13 hearing to resume the dependency jurisdiction of the court.

14 (2) The petition to resume dependency jurisdiction may be filed
15 in the juvenile court that retains jurisdiction under subdivision (b)
16 of Section 303 or the juvenile court in the county where the youth
17 resides. The juvenile court having jurisdiction under Section 303
18 shall receive the petition from the court in which the petition is
19 filed within five court days of the filing if the petition is filed in
20 the county of residence. Upon receipt of the petition, the court
21 shall order that a hearing be held and shall give prior notice, or
22 cause prior notice to be given, to the persons and by the means
23 prescribed by Section 386, except that notice to parents or former
24 guardians shall not be provided if the nonminor objects.

25 (3) The Judicial Council, by January 1, 2012, shall adopt rules
26 of court to allow for telephonic appearances by nonminor former
27 dependents in these proceedings.

28 (4) Prior to the hearing on a petition to resume dependency
29 jurisdiction, the court shall order the county child welfare or
30 probation department or Indian tribe that has entered into an
31 agreement pursuant to Section 10553.1 to prepare a report for the
32 court addressing whether the nonminor is able to meet at least one
33 of the criteria set forth in Section 11403.

34 (5) The court, if it finds that the nonminor is able to meet at
35 least one of the criteria set forth in Section 11403, shall resume
36 dependency jurisdiction and order the county child welfare or
37 probation department or tribe to develop a new transitional
38 independent living case plan with the youth, which shall be
39 presented to the court within 60 days of the resumption of the
40 dependency jurisdiction.

1 SEC. 27. Section 391 of the Welfare and Institutions Code is
2 amended to read:

3 391. (a) At any hearing to terminate jurisdiction over a
4 dependent child who has reached the age of majority, the county
5 welfare department shall do all of the following:

6 (1) Ensure that the child is present in court, unless the child
7 does not wish to appear in court, or document efforts by the county
8 welfare department to locate the child when the child is not
9 available.

10 (2) Submit a report verifying that the following information,
11 documents, and services have been provided to the child:

12 (A) Written information concerning the child's dependency
13 case, including any known information regarding the child's Indian
14 heritage or tribal connections, if applicable, his or her family
15 history and placement history, any photographs of the child or his
16 or her family in the possession of the county welfare department,
17 other than forensic photographs, the whereabouts of any siblings
18 under the jurisdiction of the juvenile court, unless the court
19 determines that sibling contact would jeopardize the safety or
20 welfare of the sibling, directions on how to access the documents
21 the child is entitled to inspect under Section 827, and the date on
22 which the jurisdiction of the juvenile court would be terminated.

23 (B) The following documents:

24 (i) Social security card.

25 (ii) Certified birth certificate.

26 (iii) Health and education summary, as described in subdivision
27 (a) of Section 16010.

28 (iv) Driver's license, as described in Section 12500 of the
29 Vehicle Code, or identification card, as described in Section 13000
30 of the Vehicle Code.

31 (v) A letter prepared by the county welfare department that
32 includes the following information:

33 (I) The child's name and date of birth.

34 (II) The dates during which the child was within the jurisdiction
35 of the juvenile court.

36 (III) A statement that the child was a foster youth in compliance
37 with state and federal financial aid documentation requirements.

38 (vi) If applicable, the death certificate of the parent or parents.

39 (vii) If applicable, proof of the child's citizenship or legal
40 residence.

1 (C) Assistance in completing an application for Medi-Cal or
2 assistance in obtaining other health insurance; referral to
3 transitional housing, if available, or assistance in securing other
4 housing; and assistance in obtaining employment or other financial
5 support.

6 (D) Assistance in applying for admission to college or to a
7 vocational training program or other educational institution and
8 in obtaining financial aid, where appropriate.

9 (E) Assistance in maintaining relationships with individuals
10 who are important to a child who has been in out-of-home
11 placement for six months or longer from the date the child entered
12 foster care, based on the child's best interests.

13 (3) The court may continue jurisdiction if it finds that the county
14 welfare department has not met the requirements of paragraph (2)
15 of subdivision (a) and that termination of jurisdiction would be
16 harmful to the best interests of the child. If the court determines
17 that continued jurisdiction is warranted pursuant to this section,
18 the continuation shall only be ordered for that period of time
19 necessary for the county welfare department to meet the
20 requirements of paragraph (2) of subdivision (a). This section shall
21 not be construed to limit the discretion of the juvenile court to
22 continue jurisdiction for other reasons. The court may terminate
23 jurisdiction if the county welfare department has offered the
24 required services, and the child either has refused the services or,
25 after reasonable efforts by the county welfare department, cannot
26 be located.

27 (b) The Judicial Council shall develop and implement standards,
28 and develop and adopt appropriate forms, necessary to implement
29 this section.

30 (c) This section shall remain in effect only until January 1, 2012,
31 and as of that date is repealed, unless a later enacted statute, that
32 is enacted before January 1, 2012, deletes or extends that date.

33 SEC. 28. Section 391 is added to the Welfare and Institutions
34 Code, to read:

35 391. (a) The court shall not terminate jurisdiction over a
36 dependent youth who has reached 18 years of age unless a hearing
37 is conducted pursuant to this section.

38 (b) At any hearing for a dependent youth who has attained 18
39 years of age at which the court is considering termination of the
40 jurisdiction of the juvenile court and the accompanying foster care

1 services as described in Section 11403, the county welfare
2 department shall do all of the following:

3 (1) Ensure that the dependent is present in court, unless the
4 dependent does not wish to appear in court, or document efforts
5 by the county welfare department to locate the child when the child
6 is not available.

7 (2) Submit a report describing whether it is in the youth's best
8 interests to remain under the court's dependency jurisdiction, which
9 includes a recommended transitional independent living case plan
10 for any youth that the department determines would benefit from
11 continued jurisdiction.

12 (c) The court shall continue dependency jurisdiction for a
13 nonminor dependent, as defined in subdivision (v) of Section 11400
14 of the Welfare and Institutions Code, who meets the criteria of
15 Section 11403 unless the court finds that after reasonable and
16 documented efforts the nonminor cannot be located or does not
17 wish to remain subject to dependency jurisdiction. In making this
18 finding, the court shall ensure that the nonminor has been informed
19 of his or her options including the right to file a petition pursuant
20 to Section 388 to resume dependency jurisdiction, and had an
21 opportunity to confer with his or her counsel if counsel has been
22 appointed pursuant to Section 317.

23 (d) If the court terminates dependency jurisdiction, the nonminor
24 shall remain within the jurisdiction of the court until the nonminor
25 attains 21 years of age, although no review proceedings shall be
26 required. A nonminor may petition the court pursuant to
27 subdivision (e) of Section 388 to resume dependency jurisdiction
28 at any time before attaining 21 years of age.

29 (e) Unless the nonminor does not wish to remain under the
30 dependency or delinquency jurisdiction of the court, or, after
31 reasonable efforts by the county welfare department the nonminor
32 cannot be located, the court shall not terminate dependency or
33 delinquency jurisdiction over a youth in foster care who has
34 reached 18 years of age until a hearing is conducted pursuant to
35 this section and the department has submitted a report verifying
36 that the following information, documents, and services have been
37 provided to the child:

38 (1) Written information concerning the child's dependency case,
39 including any known information regarding the child's Indian
40 heritage or tribal connections, if applicable, his or her family

1 history and placement history, any photographs of the child or his
2 or her family in the possession of the county welfare department,
3 other than forensic photographs, the whereabouts of any siblings
4 under the jurisdiction of the juvenile court, unless the court
5 determines that sibling contact would jeopardize the safety or
6 welfare of the sibling, directions on how to access the documents
7 the child is entitled to inspect under Section 827, and the date on
8 which the jurisdiction of the juvenile court would be terminated.

9 (2) The following documents:

10 (A) Social security card.

11 (B) Certified copy of his or her birth certificate.

12 (C) Health and education summary, as described in subdivision
13 (a) of Section 16010.

14 (D) Driver's license, as described in Section 12500 of the
15 Vehicle Code, or identification card, as described in Section 13000
16 of the Vehicle Code.

17 (E) A letter prepared by the county welfare department that
18 includes the following information:

19 (i) The child's name and date of birth.

20 (ii) The dates during which the child was within the jurisdiction
21 of the juvenile court.

22 (iii) A statement that the child was a foster youth in compliance
23 with state and federal financial aid documentation requirements.

24 (F) If applicable, the death certificate of the parent or parents.

25 (G) If applicable, proof of the child's citizenship or legal
26 residence.

27 (3) Assistance in completing an application for Medi-Cal or
28 assistance in obtaining other health insurance.

29 (4) Referrals to transitional housing, if available, or assistance
30 in securing other housing.

31 (5) Assistance in obtaining employment or other financial
32 support.

33 (6) Assistance in applying for admission to college or to a
34 vocational training program or other educational institution and
35 in obtaining financial aid, where appropriate.

36 (7) Assistance in maintaining relationships with individuals
37 who are important to a child who has been in out-of-home
38 placement for six months or longer from the date the child entered
39 foster care, based on the child's best interests.

1 (8) For nonminors between 18 and 21 years of age, assistance
2 in accessing the Independent Living Aftercare Program in the
3 nonminor's county of residence.

4 (f) At the hearing closest to and before a dependent child's 18th
5 birthday and every review hearing thereafter, the department shall
6 submit a report describing efforts toward completing the items
7 described in paragraph (2) of subdivision (e).

8 (g) The Judicial Council shall develop and implement standards,
9 and develop and adopt appropriate forms necessary to implement
10 this provision.

11 (h) This section shall become operative on January 1, 2012.

12 SEC. 29. Section 727.2 of the Welfare and Institutions Code
13 is amended to read:

14 727.2. The purpose of this section is to provide a means to
15 monitor the safety and well-being of every minor in foster care
16 who has been declared a ward of the juvenile court pursuant to
17 Section 601 or 602 and to ensure that everything reasonably
18 possible is done to facilitate the safe and early return of the minor
19 to his or her home or to establish an alternative permanent plan
20 for the minor.

21 (a) If the court orders the care, custody, and control of the minor
22 to be under the supervision of the probation officer for placement
23 pursuant to subdivision (a) of Section 727, the juvenile court shall
24 order the probation department to ensure the provision of
25 reunification services to facilitate the safe return of the minor to
26 his or her home or the permanent placement of the minor, and to
27 address the needs of the minor while in foster care, except as
28 provided in subdivision (b).

29 (b) Reunification services need not be provided to a parent or
30 legal guardian if the court finds by clear and convincing evidence
31 that one or more of the following is true:

32 (1) Reunification services were previously terminated for that
33 parent or guardian, pursuant to Section 366.21 or 366.22, or not
34 offered, pursuant to subdivision (b) of Section 361.5, in reference
35 to the same minor.

36 (2) The parent has been convicted of any of the following:

37 (A) Murder of another child of the parent.

38 (B) Voluntary manslaughter of another child of the parent.

1 (C) Aiding or abetting, attempting, conspiring, or soliciting to
2 commit that murder or manslaughter described in subparagraph
3 (A) or (B).

4 (D) A felony assault that results in serious bodily injury to the
5 minor or another child of the parent.

6 (3) The parental rights of the parent with respect to a sibling
7 have been terminated involuntarily, and it is not in the best interest
8 of the minor to reunify with his or her parent or legal guardian.

9 If no reunification services are offered to the parent or guardian,
10 the permanency planning hearing, as described in Section 727.3,
11 shall occur within 30 days of the date of the hearing at which the
12 decision is made not to offer services.

13 (c) The status of every minor declared a ward and ordered to
14 be placed in foster care shall be reviewed by the court no less
15 frequently than once every six months. The six-month time periods
16 shall be calculated from the date the minor entered foster care, as
17 defined in paragraph (4) of subdivision (d) of Section 727.4. If the
18 court so elects, the court may declare the hearing at which the court
19 orders the care, custody, and control of the minor to be under the
20 supervision of the probation officer for foster care placement
21 pursuant to subdivision (a) of Section 727 at the first status review
22 hearing. It shall be the duty of the probation officer to prepare a
23 written social study report including an updated case plan, pursuant
24 to subdivision (b) of Section 706.5, and submit the report to the
25 court prior to each status review hearing, pursuant to subdivision
26 (b) of Section 727.4. The social study report shall include all
27 reports the probation officer relied upon in making his or her
28 recommendations.

29 (d) Prior to any status review hearing involving a minor in the
30 physical custody of a community care facility or foster family
31 agency, the facility or agency may provide the probation officer
32 with a report containing its recommendations. Prior to any status
33 review hearing involving the physical custody of a foster parent,
34 relative caregiver, preadoptive parent, or legal guardian, that person
35 may present to the court a report containing his or her
36 recommendations. The court shall consider all reports and
37 recommendations filed pursuant to subdivision (c) and pursuant
38 to this subdivision.

1 (e) At any status review hearing prior to the first permanency
2 planning hearing, the court shall consider the safety of the minor
3 and make findings and orders which determine the following:

4 (1) The continuing necessity for and appropriateness of the
5 placement.

6 (2) The extent of the probation department's compliance with
7 the case plan in making reasonable efforts to safely return the
8 minor to the minor's home or to complete whatever steps are
9 necessary to finalize the permanent placement of the minor.

10 (3) Whether there should be any limitation on the right of the
11 parent or guardian to make educational decisions for the minor.
12 That limitation shall be specifically addressed in the court order
13 and may not exceed what is necessary to protect the minor. If the
14 court specifically limits the right of the parent or guardian to make
15 educational decisions for the minor, the court shall at the same
16 time appoint a responsible adult to make educational decisions for
17 the minor pursuant to Section 726.

18 (4) The extent of progress that has been made by the minor and
19 parent or guardian toward alleviating or mitigating the causes
20 necessitating placement in foster care.

21 (5) The likely date by which the minor may be returned to and
22 safely maintained in the home or placed for adoption, appointed
23 a legal guardian, permanently placed with a fit and willing relative
24 or referred to another planned permanent living arrangement.

25 (6) In the case of a minor who has reached 16 years of age, the
26 court shall, in addition, determine the services needed to assist the
27 minor to make the transition from foster care to independent living.

28 The court shall make these determinations on a case-by-case
29 basis and reference in its written findings the probation officer's
30 report and any other evidence relied upon in reaching its decision.

31 (f) At any status review hearing prior to the first permanency
32 hearing, the court shall order return of the minor to the physical
33 custody of his or her parent or legal guardian unless the court finds,
34 by a preponderance of evidence, that the return of the minor to his
35 or her parent or legal guardian would create a substantial risk of
36 detriment to the safety, protection, or physical or emotional
37 well-being of the minor. The probation department shall have the
38 burden of establishing that detriment. In making its determination,
39 the court shall review and consider the social study report,
40 recommendations, and the case plan pursuant to subdivision (b)

1 of Section 706.5, the report and recommendations of any child
2 advocate appointed for the minor in the case, and any other reports
3 submitted to the court pursuant to subdivision (d), and shall
4 consider the efforts or progress, or both, demonstrated by the minor
5 and family and the extent to which the minor availed himself or
6 herself of the services provided.

7 (g) At all status review hearings subsequent to the first
8 permanency planning hearing, the court shall consider the safety
9 of the minor and make the findings and orders as described in
10 paragraphs (1) to (4), inclusive, and (6) of subdivision (e). The
11 court shall either make a finding that the previously ordered
12 permanent plan continues to be appropriate or shall order that a
13 new permanent plan be adopted pursuant to subdivision (b) of
14 Section 727.3. However, the court shall not order a permanent plan
15 of “return to the physical custody of the parent or legal guardian
16 after further reunification services are offered,” as described in
17 paragraph (2) of subdivision (b) of Section 727.3.

18 (h) The status review hearings required by subdivision (c) may
19 be heard by an administrative review panel, provided that the
20 administrative panel meets all of the requirements listed in
21 subparagraph (B) of paragraph (7) of subdivision (d) of Section
22 727.4.

23 (i) On and after January 1, 2012, at the status review hearing at
24 which a recommendation to terminate delinquency jurisdiction is
25 being considered, or at the status review hearing held closest to
26 the ward attaining 18 years of age, or both, but no fewer than 60
27 days before the ward’s 18th birthday, the court shall consider
28 whether to modify its jurisdiction pursuant to Section 601 or 602
29 and assume jurisdiction over the child as a dependent pursuant to
30 subdivision (l) of Section 300. The probation department shall
31 address this issue in its report to the court and make a
32 recommendation as to whether dependency jurisdiction is
33 appropriate for the child.

34 (j) On and after January 1, 2012, if a review hearing pursuant
35 to this section is the last review hearing to be held before the minor
36 attains 18 years of age, the court shall ensure that the minor’s
37 transitional independent living case plan includes a plan for the
38 minor to meet one or more of the criteria in Section 11403, so that
39 the minor can become a nonminor dependent, and that the minor
40 has been informed of his or her right to decline to enter into a

1 mutual agreement, as defined in subdivision (u) of Section 11400,
2 and of the consequences for the minor of entering or not entering
3 into such an agreement.

4 SEC. 29.5. Section 785 of the Welfare and Institutions Code
5 is amended to read:

6 785. (a) Where a minor is a ward of the juvenile court, the
7 wardship did not result in the minor's commitment to the Youth
8 Authority, and the minor is found not to be a fit and proper subject
9 to be dealt with under the juvenile court law with respect to a
10 subsequent allegation of criminal conduct, any parent or other
11 person having an interest in the minor, or the minor, through a
12 properly appointed guardian, the prosecuting attorney, or probation
13 officer, may petition the court in the same action in which the
14 minor was found to be a ward of the juvenile court for a hearing
15 for an order to terminate or modify the jurisdiction of the juvenile
16 court. The court shall order that a hearing be held and shall give
17 prior notice, or cause prior notice to be given, to those persons and
18 by the means prescribed by Sections 776 and 779, or where the
19 means of giving notice is not prescribed by those sections, then
20 by such means as the court prescribes.

21 (b) The petition shall be verified and shall state why jurisdiction
22 should be terminated or modified in concise language.

23 (c) In determining whether or not the wardship shall terminate
24 or be modified, the court shall be guided by the policies set forth
25 in Section 202.

26 (d) On and after January 1, 2012, at any hearing pursuant to this
27 section involving a minor who has been removed from the physical
28 custody of his or her parent or guardian and placed in foster care
29 for whom reunification with the parent or guardian would be
30 detrimental, the court shall consider whether to modify its
31 jurisdiction and declare the minor to be a dependent child, pursuant
32 to subdivision (l) of Section 300.

33 (e) In addition to its authority under this chapter, the Judicial
34 Council shall adopt rules providing criteria for the consideration
35 of the juvenile court in determining whether or not to terminate or
36 modify jurisdiction pursuant to this section.

37 SEC. 30. Section 10609.4 of the Welfare and Institutions Code
38 is amended to read:

39 10609.4. (a) On or before July 1, 2000, the State Department
40 of Social Services, in consultation with county and state

1 representatives, foster youth, and advocates, shall do both of the
2 following:

3 (1) Develop statewide standards for the implementation and
4 administration of the Independent Living Program established
5 pursuant to the federal Consolidated Omnibus Budget
6 Reconciliation Act of 1985 (Public Law 99-272).

7 (2) Define the outcomes for the Independent Living Program
8 and the characteristics of foster youth enrolled in the program for
9 data collection purposes.

10 (b) Each county department of social services shall include in
11 its annual Independent Living Program report both of the
12 following:

13 (1) An accounting of federal and state funds allocated for
14 implementation of the program. Expenditures shall be related to
15 the specific purposes of the program. Program purposes may
16 include, but are not limited to, all of the following:

17 (A) Enabling participants to seek a high school diploma or its
18 equivalent or to take part in appropriate vocational training, and
19 providing job readiness training and placement services, or building
20 work experience and marketable skills, or both.

21 (B) Providing training in daily living skills, budgeting, locating
22 and maintaining housing, and career planning.

23 (C) Providing for individual and group counseling.

24 (D) Integrating and coordinating services otherwise available
25 to participants.

26 (E) Providing each participant with a written transitional
27 independent living plan that will be based on an assessment of his
28 or her needs, that includes information provided by persons who
29 have been identified by the participant as important to the
30 participant in cases in which the participant has been in
31 out-of-home placement for six months or longer from the date the
32 participant entered foster care, consistent with the participant's
33 best interests, and that will be incorporated into his or her case
34 plan.

35 (F) Providing participants who are within 90 days of attaining
36 the age that would qualify the participant for federal financial
37 participation, as described in Section 11403, including those former
38 foster care youth receiving Independent Living Program Aftercare
39 Services, the opportunity to complete the exit transition plan as
40 required by paragraph (16) of subdivision (f) of Section 16501.1.

1 (G) Providing participants with other services and assistance
2 designed to improve independent living.

3 (H) Convening persons who have been identified by the
4 participant as important to him or her for the purpose of providing
5 information to be included in his or her written transitional
6 independent living plan.

7 (2) A detail of the characteristics of foster youth enrolled in
8 their independent living programs and the outcomes achieved
9 based on the information developed by the department pursuant
10 to subdivision (a).

11 (c) The county department of social services in a county that
12 provides transitional housing placement services pursuant to
13 paragraph (2) of subdivision (a) of Section 11403.2 shall include
14 in its annual Independent Living Program report a description of
15 currently available transitional housing resources in relation to the
16 number of emancipating pregnant or parenting foster youth in the
17 county, and a plan for meeting any unmet transitional housing
18 needs of the emancipating pregnant or parenting foster youth.

19 (d) In consultation with the department, a county may use
20 different methods and strategies to achieve the standards and
21 outcomes of the Independent Living Program developed pursuant
22 to subdivision (a).

23 (e) In consultation with the County Welfare Directors
24 Association, the California Youth Connection, and other
25 stakeholders, the department shall develop and adopt emergency
26 regulations, no later than July 1, 2012, in accordance with Section
27 11346.1 of the Government Code that counties shall be required
28 to meet when administering the Independent Living Program and
29 that are achievable within existing program resources and any
30 federal funds available for case management and case plan review
31 functions for nonminor dependents, as provided for in the federal
32 Fostering Connections to Success and Increasing Adoptions Act
33 of 2008 (Public Law 110-351). The initial adoption of emergency
34 regulations and one readoption of the initial regulations shall be
35 deemed to be an emergency and necessary for the immediate
36 preservation of the public peace, health and safety, or general
37 welfare. Initial emergency regulations and the first readoption of
38 those regulations shall be exempt from review by the Office of
39 Administrative Law. The initial emergency regulations and the
40 first readoption of those regulations authorized by this subdivision

1 shall be submitted to the Office of Administrative Law for filing
2 with the Secretary of State and each shall remain in effect for no
3 more than 180 days.

4 (f) The department, in consultation with representatives of the
5 Legislature, the County Welfare Directors Association, the Chief
6 Probation Officers of California, the Judicial Council,
7 representatives of tribes, the California Youth Connection, former
8 foster youth, child advocacy organizations, labor organizations,
9 dependency counsel for children, juvenile justice advocacy
10 organizations, foster caregiver organizations, and researchers, shall
11 review and develop modifications needed to the Independent Living
12 Program to also serve the needs of nonminor dependents, as defined
13 in subdivision (v) of Section 11400, eligible for services pursuant
14 to Section 11403. These modifications shall include the exit
15 transition plan required to be completed within the 90-day period
16 immediately prior to the date the nonminor participant attains the
17 age that would qualify the participant for federal financial
18 participation, as described in Section 11403, pursuant to Section
19 675(5)(H) of Title 42 of the United States Code. Notwithstanding
20 the Administrative Procedure Act, Chapter 3.5 (commencing with
21 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
22 Code, through June 30, 2012, the department shall prepare for
23 implementation of the applicable provisions of this section by
24 publishing all-county letters or similar instructions from the director
25 by July 1, 2011, which shall be applicable from January 1, 2012,
26 to June 30, 2012, inclusive.

27 SEC. 31. Section 11008.15 of the Welfare and Institutions
28 Code is amended to read:

29 11008.15. Notwithstanding Sections 11008.14 and 11267, the
30 department shall exercise the options of disregarding earned income
31 of a dependent child or ward of the juvenile court derived from
32 participation in the Job Training Partnership Act of 1982 (Public
33 Law 97-300), a dependent child or ward of the juvenile court who
34 is a full-time student pursuant to the Deficit Reduction Act of 1984
35 (Public Law 97-369), a dependent child or ward of the juvenile
36 court 16 years of age or older who is a participant in the
37 Independent Living Program pursuant to the Consolidated Omnibus
38 Budget Reconciliation Act of 1985 (Public Law 99-272), and, on
39 and after January 1, 2012, a nonminor dependent, as defined in
40 subdivision (v) of Section 11400 who is participating in a

1 transitional independent living case plan pursuant to the federal
2 Fostering Connections to Success and Increasing Adoptions Act
3 of 2008 (Public Law 110-351), provided that the child's
4 Independent Living Program case plan states that the purpose of
5 the employment is to enable the child to gain knowledge of needed
6 work skills, work habits, and the responsibilities of maintaining
7 employment.

8 SEC. 32. Section 11155.5 of the Welfare and Institutions Code
9 is amended to read:

10 11155.5. (a) In addition to the personal property permitted by
11 other provisions of this part, a child declared a ward or dependent
12 child of the juvenile court, who is 16 years of age or older, or, on
13 and after January 1, 2012 a nonminor dependent, as defined in
14 subdivision (v) of Section 11400, who is participating in a
15 transitional independent living case plan pursuant to the federal
16 Fostering Connections to Success and Increasing Adoptions Act
17 of 2008 (Public Law 110-351), may retain resources with a
18 combined value of not more than ten thousand dollars (\$10,000),
19 consistent with Section 472(a) of the federal Social Security Act
20 (42 U.S.C. Sec. 672(a)) as contained in the federal Foster Care
21 Independence Act of 1999 (Public Law 106-169) and the child's
22 transitional independent living plan. Any cash savings shall be the
23 child's own money and shall be deposited by the child or on behalf
24 of the child in any bank or savings and loan institution whose
25 deposits are insured by the Federal Deposit Insurance Corporation
26 or the Federal Savings and Loan Insurance Corporation. The cash
27 savings shall be for the child's use for purposes directly related to
28 the child's or nonminor dependents' transitional independent living
29 case plan goals.

30 (b) The withdrawal of the savings by a child shall require the
31 written approval of the child's probation officer or social worker
32 and shall be directly related to the goal of emancipation. This
33 written approval is not required for withdrawals by a nonminor
34 dependent.

35 SEC. 32.5. Section 11217 is added to the Welfare and
36 Institutions Code, to read:

37 11217. (a) The Director of Social Services shall execute a
38 declaration stating that increased federal financial participation in
39 the Emergency Contingency Fund for State Temporary Assistance
40 for Needy Families (TANF) Programs is no longer available

1 pursuant to the federal American Recovery and Reinvestment Act
2 of 2009 (ARRA) (Public Law 111-5) or subsequent federal
3 legislation, including an amendment to the ARRA, that maintains
4 or extends increased federal financial participation.

5 (b) The director shall provide a copy of the declaration to the
6 appropriate policy and fiscal committees of the Legislature.

7 SEC. 33. Section 11253 of the Welfare and Institutions Code
8 is amended to read:

9 11253. (a) Aid shall not be granted under this chapter to or on
10 behalf of any child who has attained 18 years of age unless all of
11 the following apply:

12 (1) The child is less than 19 years of age and is attending high
13 school or the equivalent level of vocational or technical training
14 on a full-time basis.

15 (2) The child can reasonably be expected to complete the
16 educational or training program before his or her 19th birthday.

17 (b) On and after January 1, 2012, aid shall be granted under this
18 chapter to or on behalf of any nonminor dependent, as defined in
19 subdivision (v) of Section 11400, if the nonminor dependent is
20 placed in the approved home of a relative under the supervision
21 of the county child welfare or probation department or Indian tribe
22 that has entered into an agreement pursuant to Section 10553.1,
23 and the nonminor dependent otherwise meets the criteria of Section
24 11403.

25 SEC. 34. Article 4.5 (commencing with Section 11360) is
26 added to Chapter 2 of Part 3 of Division 9 of the Welfare and
27 Institutions Code, to read:

28
29 Article 4.5. Kinship Guardianship Assistance Payment Program
30

31 11360. Effective on the date that the director executes a
32 declaration pursuant to Section 11217, the department shall
33 establish a state-funded Kinship Guardianship Assistance Payment
34 Program as specified in this article.

35 11361. The Legislature finds and declares that the continuation
36 of the state-funded Kinship Guardianship Assistance Payment
37 Program is intended to enhance family preservation and stability
38 by recognizing that some dependent children and wards of the
39 juvenile court who are not otherwise eligible under Subtitle IV-E
40 (commencing with Section 470) of the federal Social Security Act

1 (42 U.S.C. Sec. 670 et seq.) are in long-term, stable placements
2 with relatives funded under the CalWORKs program pursuant to
3 Section 11450, that these placements are the permanent plan for
4 the child, that dependencies can be dismissed pursuant to Section
5 366.3 with legal guardianship granted to the relative, and that there
6 is no need for continued governmental intervention in the family
7 life through ongoing, scheduled court and social services
8 supervision of the placement. Continuation of the state-funded
9 Kin-GAP Program is necessary to ensure that wards and dependent
10 children of the juvenile court whose placement in the home of an
11 approved relative is funded under the CalWORKs program are
12 equally eligible for the benefits derived from legal permanency
13 with the related guardian and that the state can maximize
14 improvements to federal permanency outcome measures by exiting
15 nonfederally eligible youth to the state's subsidized kinship
16 guardianship program.

17 11362. For purposes of this article, the following definitions
18 shall apply:

19 (a) "Kinship Guardianship Assistance Payments (Kin-GAP)"
20 means the state-funded aid provided under the terms of this article
21 on behalf of children in kinship care who are not eligible for
22 federally funded Kin-GAP pursuant to Section 11385.

23 (b) "Kinship guardian" means a person who (1) has been
24 appointed the legal guardian of a dependent child pursuant to
25 Section 366.26 and (2) is a relative of the child.

26 (c) "Relative" means an adult who is related to the child by
27 blood, adoption, or affinity within the fifth degree of kinship,
28 including stepparents, stepsiblings, and all relatives whose status
29 is preceded by the words "great," "great-great," or "grand" or the
30 spouse of any of those persons even if the marriage was terminated
31 by death or dissolution.

32 11363. (a) Aid in the form of state-funded Kin-GAP shall be
33 provided under this article on behalf of any child under 18 years
34 of age and to any eligible youth under 19 years of age as provided
35 in Section 11403, who meets all of the following conditions:

36 (1) Has been adjudged a dependent child of the juvenile court
37 pursuant to Section 300, or, effective October 1, 2006, a ward of
38 the juvenile court pursuant to Section 601 or 602.

39 (2) Has been living with a relative for at least six consecutive
40 months.

1 (3) Has had a kinship guardianship with that relative established
2 as the result of the implementation of a permanent plan pursuant
3 to Section 366.26.

4 (4) Has had his or her dependency jurisdiction terminated after
5 January 1, 2000, pursuant to Section 366.3, or his or her wardship
6 terminated pursuant to subdivision (e) of Section 728, concurrently
7 or subsequently to the establishment of the kinship guardianship.

8 (b) If the conditions specified in subdivision (a) are met and,
9 subsequent to the termination of dependency jurisdiction, any
10 parent or person having an interest files with the juvenile court a
11 petition pursuant to Section 388 to change, modify, or set aside an
12 order of the court, Kin-GAP payments shall continue unless and
13 until the juvenile court, after holding a hearing, orders the child
14 removed from the home of the guardian, terminates the
15 guardianship, or otherwise grants the relief requested in the
16 petition.

17 (c) Through December 31, 2011, Kin-GAP payments shall
18 continue after the child's 18th birthday if the conditions specified
19 in Section 11403 are met.

20 (d) Commencing January 1, 2012, state-funded Kin-GAP
21 payments shall continue for youths who have attained 18 years of
22 age and are under 19 years of age if they attained 16 years of age
23 before the Kin-GAP aid payments commenced. Effective January
24 1, 2013, Kin-GAP payments shall continue for youths who have
25 attained 18 years of age and who are under 20 years of age, if they
26 reached 16 years of age before the Kin-GAP negotiated payments
27 commenced. Effective January 1, 2014, Kin-GAP payments shall
28 continue for youths who have attained 18 years of age and are
29 under 21 years of age, if they reached 16 years of age before the
30 Kin-GAP negotiated payments commenced. To be eligible for
31 continued payments, the youth shall meet one or more of the
32 following criteria:

33 (1) The youth is completing secondary education or a program
34 leading to an equivalent credential.

35 (2) The youth is enrolled in an institution that provides
36 postsecondary or vocational education.

37 (3) The youth is participating in a program or activity designed
38 to promote, or remove barriers to, employment.

39 (4) The youth is employed for at least 80 hours per month.

1 (5) The youth is incapable of doing any of the activities
2 described in paragraphs (1) to (4), inclusive, due to a medical
3 condition and the incapability is supported by regularly updated
4 information in the case plan of the youth.

5 (e) Termination of the guardianship with a kinship guardian
6 shall terminate eligibility for Kin-GAP unless the conditions in
7 Section 11403 apply; provided, however, that if an alternate
8 guardian or coguardian is appointed pursuant to Section 366.3 who
9 is also a kinship guardian, the alternate or coguardian shall be
10 entitled to receive Kin-GAP on behalf of the child pursuant to this
11 article. A new period of six months of placement with the alternate
12 guardian or coguardian shall not be required if that alternate
13 guardian or coguardian has been assessed pursuant to Sections
14 361.3 and 361.4 and the court terminates dependency jurisdiction.

15 ~~11364. (a) Notwithstanding subdivision (a) of Section 11450,~~
16 ~~the rate paid on behalf of children eligible for a Kin-GAP payment~~
17 ~~shall equal 100 percent of the rate for children placed in a licensed~~
18 ~~or approved home as specified in subdivisions (a) to (d), inclusive,~~
19 ~~of Section 11461.~~

20 ~~(b) For a child eligible for a Kin-GAP payment who is a teen~~
21 ~~parent, the rate shall include the two hundred dollar (\$200) monthly~~
22 ~~payment made to the relative caregiver in a whole family foster~~
23 ~~home pursuant to paragraph (3) of subdivision (d) of Section~~
24 ~~11465, where prior to entering the Kin-GAP program, the relative~~
25 ~~was receiving foster care benefits on behalf of the child as a whole~~
26 ~~family foster home.~~

27 ~~(c) Effective October 1, 2006, the rate paid for a child eligible~~
28 ~~for a Kin-GAP payment shall be increased by an amount equal to~~
29 ~~the clothing allowances, as set forth in subdivision (f) of Section~~
30 ~~11461, to which the child would have been entitled while in foster~~
31 ~~care, including any applicable rate adjustments.~~

32 ~~(d) Effective October 1, 2006, if a child, while in foster care,~~
33 ~~received a specialized care increment, immediately prior to his or~~
34 ~~her enrollment in the Kin-GAP Program, as defined in paragraph~~
35 ~~(1) of subdivision (e) of Section 11461, the Kin-GAP rate shall be~~
36 ~~adjusted by the specialized care increment amount, including any~~
37 ~~applicable rate adjustments.~~

38 ~~(e) If a child, while in foster care, received a dual agency rate,~~
39 ~~as defined in subdivision (c) of Section 11464, immediately prior~~
40 ~~to his or her enrollment in the Kin-GAP Program, the Kin-GAP~~

1 rate shall be the amount of the dual agency rate, including any
2 applicable rate adjustments under paragraph (3) of subdivision (e)
3 of Section 11464.

4 (f) If a child, while in foster care, is receiving services under
5 the California Early Start Intervention Services Act, and is
6 receiving AFDC-FC benefits as defined in paragraph (1) of
7 subdivision (d) of Section 11464, immediately prior to his or her
8 enrollment in the Kin-GAP Program, the child shall be considered
9 and assessed for a dual agency rate, as defined in subdivision (e)
10 of Section 11464, if the child becomes a regional center client.
11 The Kin-GAP rate shall be the amount of the dual agency rate,
12 including any applicable rate adjustments under paragraph (3) of
13 subdivision (e) of Section 11464.

14 11364. (a) In order to receive payments under this article, the
15 county child welfare agency, probation department, or Indian tribe
16 that has entered into an agreement pursuant to Section 10553.1,
17 shall negotiate and enter into a written, binding, kinship
18 guardianship assistance agreement with the relative guardian of
19 an eligible child, and provide the relative guardian with a copy of
20 the agreement.

21 (b) The agreement shall specify, at a minimum, all of the
22 following:

23 (1) The amount of and manner in which the kinship guardianship
24 assistance payment will be provided under the agreement, and the
25 manner in which the agreement may be adjusted periodically, but
26 no less frequently than every two years, in consultation with the
27 relative guardian, based on the circumstances of the relative
28 guardian and the needs of the child.

29 (2) Additional services and assistance for which the child and
30 relative guardian will be eligible under the agreement.

31 (3) A procedure by which the relative guardian may apply for
32 additional services, as needed, including the filing of a petition
33 under Section 388 to have dependency jurisdiction resumed
34 pursuant to subdivision (b) of Section 366.3.

35 (c) In accordance with the Kin-GAP agreement, the relative
36 guardian shall be paid an amount of aid based on the child's needs
37 otherwise covered in AFDC-FC payments and the circumstances
38 of the relative guardian, but that shall not exceed the foster care
39 maintenance payment that would have been paid based on the
40 age-related state-approved foster family home care rate and any

1 applicable specialized care increment for a child placed in a
2 licensed or approved family home pursuant to subdivisions (a) to
3 (d), inclusive, of Section 11461. In addition, the rate paid for a
4 child eligible for a Kin-GAP payment shall include an amount
5 equal to the clothing allowance, as set forth in subdivision (f) of
6 Section 11461, including any applicable rate adjustments. For a
7 child eligible for a Kin-GAP payment who is a teen parent, the
8 rate shall include the two hundred dollar (\$200) monthly payment
9 made to the relative caregiver in a whole family foster home
10 pursuant to paragraph (3) of subdivision (d) of Section 11465.

11 (d) The county child welfare agency, probation department, or
12 Indian tribe that entered into an agreement pursuant to Section
13 10553.1 shall provide the prospective relative guardian with
14 information, in writing, on the availability of the Kin-GAP program
15 with an explanation of the difference between these benefits and
16 Adoption Assistance Program benefits and AFDC-FC benefits.
17 The agency shall also provide the prospective relative guardian
18 with information on the availability of mental health services
19 through the Medi-Cal program or other programs.

20 (e) The Kin-GAP agreement shall also specify the responsibility
21 of the relative guardian for reporting changes in the needs of the
22 child or the circumstances of the relative guardian that affect
23 payment.

24 (f) The county child welfare agency, probation department, or
25 Indian tribe, as appropriate, shall assess the needs of the child
26 and the circumstances of the related guardian and is responsible
27 for determining that the child meets the eligibility criteria for
28 payment.

29 (g) Payments on behalf of a child who is a recipient of Kin-GAP
30 benefits and who is also a consumer of regional center services
31 shall be based on the rates established by the State Department
32 of Social Services pursuant to Section 11464.

33 11365. State-funded Kin-GAP benefits shall be paid to the
34 kinship guardian on a per child basis. If the conditions in Section
35 11403 or 11403.01 apply, the payment in whole or in part may be
36 paid to the eligible nonminor directly.

37 11366. A child who is eligible to receive Medi-Cal benefits
38 with no share of cost shall maintain that eligibility notwithstanding
39 the receipt of state-funded Kin-GAP by his or her kinship guardian.

1 11367. State-funded Kin-GAP, in an amount equal to the
2 applicable regional per-child CalWORKs grant, shall be paid by
3 the state. The supplemental clothing allowance shall be paid
4 pursuant to paragraph (5) of subdivision (f) of Section 11461. The
5 balance of Kin-GAP shall be paid in equal portions by the state
6 and the counties. Notwithstanding Section 11216, effective July
7 1, 2006, the state share of benefits and administration of the
8 state-funded Kin-GAP Program shall be funded with General Fund
9 resources.

10 11369. (a) Notwithstanding the Administrative Procedure Act,
11 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
12 3 of Title 2 of the Government Code, the department may
13 implement the applicable provisions of the state-funded Kin-GAP
14 Program through all-county letters or similar instructions from the
15 director.

16 (b) The director shall adopt regulations as otherwise necessary,
17 to implement the applicable provisions of the Kin-GAP Program.
18 Emergency regulations to implement the applicable provisions of
19 this act may be adopted by the director in accordance with the
20 Administrative Procedure Act. The initial adoption of the
21 emergency regulations and one readoption of the initial regulations
22 shall be deemed to be an emergency and necessary for the
23 immediate preservation of the public peace, health, safety or
24 general welfare. Initial emergency regulations and the first
25 readoption of those emergency regulations shall be exempt from
26 review by the Office of Administrative Law. The emergency
27 regulations authorized by this section shall be submitted to the
28 Office of Administrative Law for filing with the Secretary of State
29 and shall remain in effect for no more than 180 days.

30 11370. The county welfare department or probation department
31 or Indian tribe, as appropriate, at the time of the Kin-GAP annual
32 redetermination, shall meet with the relative guardian and the
33 nonfederally eligible child and enter into an agreement for
34 state-funded Kin-GAP as described in Section 11364. This process
35 shall continue for at least 12 calendar months or until all
36 state-funded Kin-GAP cases as of the effective date described have
37 been processed.

38 11371. Income to the child, including the state-funded Kin-GAP
39 payment, shall not be considered income to the kinship guardian
40 for purposes of determining the kinship guardian's eligibility for

1 any other aid program, unless required by federal law as a condition
2 of the receipt of federal financial participation.

3 11372. (a) Notwithstanding any other provision of law, the
4 state-funded Kinship Guardianship Assistance Payment Program
5 implemented under this article is exempt from the provisions of
6 Chapter 2 (commencing with Section 11200) of Part 3.

7 (b) A person who is a kinship guardian under this article, and
8 who has met the requirements of Section 361.4, shall be exempt
9 from Chapter 4.6 (commencing with Section 10830) of Part 2
10 governing the statewide fingerprint imaging system. A guardian
11 who is also an applicant for or a recipient of benefits under the
12 CalWORKs program, Chapter 2 (commencing with Section 11200)
13 of Part 3, or the Food Stamp program, Chapter 10 (commencing
14 with Section 18900) of Part 6 shall comply with the statewide
15 fingerprint imaging system requirements applicable to those
16 programs.

17 (c) Any exemptions exercised pursuant to this section shall be
18 implemented in accordance with Section 11369.

19 11374. (a) Each county that formally had court ordered
20 jurisdiction under Section 300, 601, or 602 over a child receiving
21 benefits under the state-funded Kin-GAP program shall be
22 responsible for paying the child's aid regardless of where the child
23 actually resides, so long as the child resides in California.

24 (b) Notwithstanding any other provision of law, when a child
25 receiving benefits under the CalWORKs program becomes eligible
26 for benefits under the state-funded Kin-GAP program during any
27 month, the child shall continue to receive benefits under the
28 CalWORKs program, as appropriate, to the end of that calendar
29 month, and Kin-GAP payments shall begin the first day of the
30 following month.

31 11375. The following shall apply to any child or nonminor in
32 receipt of state-funded Kin-GAP benefits:

33 (a) He or she is eligible to request and receive independent living
34 services pursuant to Section 10609.3.

35 (b) He or she may retain cash savings, not to exceed ten
36 thousand dollars (\$10,000), including interest, in addition to any
37 other property accumulated pursuant to Section 11257 or 11257.5.

38 (c) He or she shall have earned income disregarded pursuant to
39 Section 11008.15.

1 11376. A foster child who has become the subject of a legal
2 guardianship, who is receiving assistance under the Kin-GAP
3 Program under this article or under Article 4.7 (commencing with
4 Section 11385), including Medi-Cal, and whose foster care court
5 supervision has been terminated, shall be provided medically
6 necessary specialty mental health services by the local mental
7 health plan in the county of residence of his or her legal guardian,
8 pursuant to all of the following:

9 (a) The host county mental health plan shall be responsible for
10 submitting the treatment authorization request (TAR) to the mental
11 health plan in the county of origin.

12 (b) The requesting public or private service provider shall
13 prepare the TAR.

14 (c) The county of origin shall retain responsibility for
15 authorization and reauthorization of services utilizing an expedited
16 TAR process.

17 11378. (a) It is the intent of the Legislature to provide a
18 seamless and minimally intrusive process to allow an otherwise
19 federally eligible child who is receiving assistance payments under
20 this article to access the benefits of federally funded Kin-GAP
21 pursuant to Article 4.7 (commencing with Section 11385). The
22 transition to federally funded Kin-GAP shall be accomplished with
23 minimal disruption to the existing relative guardian and the child,
24 and with no break in the continuity of assistance payments.

25 (b) Effective on the date that the director executes the declaration
26 described in Section 11379, at the time of the annual
27 redetermination of the state-funded Kin-GAP benefits, the county
28 shall determine whether the child was receiving federal AFDC-FC
29 payments prior to receiving Kin-GAP, while a dependent child or
30 ward of the juvenile court. Those children determined to have
31 previously received AFDC-FC payments shall be reassigned to
32 the county social worker, who shall inform the relative guardian,
33 and the child if over 12 years of age, of the benefits of transitioning
34 to federal Kin-GAP and the process for making the transition. The
35 process described in this subdivision shall continue for at least 12
36 calendar months, or until all state-funded Kin-GAP cases as of the
37 effective date described in this subdivision have been processed.

38 (c) Upon completion of the negotiated Kin-GAP agreement, the
39 child shall be eligible for federally funded Kin-GAP pursuant to
40 Article 4.7 (commencing with Section 11385).

1 (d) The county shall terminate the state-funded Kin-GAP
2 payment made pursuant to the former Article 4.5 (commencing
3 with Section 11360), and with no break in the continuity of aid,
4 shall commence payments under the federal Kin-GAP program
5 pursuant to Article 4.7 (commencing with Section 11385).

6 11379. This article shall become operative on the date that the
7 Director of Social Services executes the declaration required
8 pursuant to Section 11217, stating that increased federal financial
9 participation from the Emergency Contingency Fund for State
10 Temporary Assistance for Needy Families (TANF) Programs is
11 no longer available pursuant to the federal American Recovery
12 and Reinvestment Act of 2009 (ARRA) (Public Law 111-5) or
13 subsequent federal legislation, including an amendment to the
14 ARRA, that maintains or extends increased federal financial
15 participation.

16 SEC. 35. Section 11363 of the Welfare and Institutions Code
17 is amended to read:

18 11363. (a) Aid in the form of Kin-GAP shall be provided under
19 this article on behalf of any child under 18 years of age who meets
20 all of the following conditions:

21 (1) Has been adjudged a dependent child of the juvenile court
22 pursuant to Section 300, or, effective October 1, 2006, a ward of
23 the juvenile court pursuant to Section 601 or 602.

24 (2) Has been living with a relative for at least six consecutive
25 months.

26 (3) Has had a kinship guardianship with that relative established
27 as the result of the implementation of a permanent plan pursuant
28 to Section 366.26.

29 (4) Has had his or her dependency dismissed after January 1,
30 2000, pursuant to Section 366.3, or his or her wardship terminated
31 pursuant to subdivision (e) of Section 728, concurrently or
32 subsequently to the establishment of the kinship guardianship.

33 (b) Kin-GAP payments shall continue after the child's 18th
34 birthday if the conditions specified in Section 11403 are met.

35 (c) Termination of the guardianship with a kinship guardian
36 shall terminate eligibility for Kin-GAP; provided, however, that
37 if an alternate guardian or coguardian is appointed pursuant to
38 Section 366.3 who is also a kinship guardian, the alternate or
39 coguardian shall be entitled to receive Kin-GAP on behalf of the
40 child pursuant to this article. A new period of six months of

1 placement with the alternate guardian or coguardian shall not be
2 required if that alternate guardian or coguardian has been assessed
3 pursuant to Section 361.3 and the court terminates dependency
4 jurisdiction.

5 (d) If the conditions specified in subdivisions (a) to (c),
6 inclusive, are met and, subsequent to the termination of dependency
7 jurisdiction, a parent or person having an interest files with the
8 juvenile court a petition pursuant to Section 388 to change, modify,
9 or set aside an order of the court, Kin-GAP payments shall continue
10 unless and until the juvenile court orders the child removed from
11 the home of the guardian, terminates the guardianship, or otherwise
12 grants the relief requested in the petition, after holding a hearing.

13 SEC. 36. Section 11376 of the Welfare and Institutions Code
14 is amended to read:

15 11376. A foster child who has become the subject of a legal
16 guardianship, who is receiving assistance under the Kin-Gap
17 Program, including Medi-Cal, and whose foster care court
18 supervision has been terminated, shall be provided medically
19 necessary specialty mental health services by the local mental
20 health plan in the county of residence of his or her legal guardian,
21 pursuant to all of the following:

22 (a) The host county mental health plan shall be responsible for
23 submitting the treatment authorization request (TAR) to the mental
24 health plan in the county of origin.

25 (b) The requesting public or private service provider shall
26 prepare the TAR.

27 (c) The county of origin shall retain responsibility for
28 authorization and reauthorization of services utilizing an expedited
29 TAR process.

30 (d) This article shall become inoperative on the date that the
31 Director of Social Services executes the declaration required
32 pursuant to Section 11217, stating that increased federal financial
33 participation in the Emergency Contingency Fund for State
34 Temporary Assistance for Needy Families (TANF) Programs is
35 no longer available pursuant to the federal American Recovery
36 and Reinvestment Act of 2009 (ARRA) (Public Law 111-5) or
37 subsequent federal legislation, including an amendment to the
38 ARRA, that maintains or extends increased federal financial
39 participation and as of the January 1 immediately following that
40 date is repealed.

1 SEC. 37. Article 4.7 (commencing with Section 11385) is
2 added to Chapter 2 of Part 3 of Division 9 of the Welfare and
3 Institutions Code, to read:

4
5 Article 4.7. Kinship Guardianship Assistance Payments for
6 Children
7

8 11385. (a) On and after the date that the director executes a
9 declaration pursuant to Section 11217, the State Department of
10 Social Services shall exercise its option under Section 671(a)(28)
11 of Title 42 of the United States Code to enter into kinship
12 guardianship assistance agreements to provide federally funded
13 kinship guardianship assistance payments on behalf of children to
14 grandparents and other relatives who have assumed legal
15 guardianship of the children for whom they have cared as approved
16 relative caregivers and for whom they have committed to care on
17 a permanent basis, as provided in Section 673(d) of Title 42 of the
18 United States Code.

19 (b) A kinship guardianship assistance payment made under this
20 article on behalf of a child shall not exceed the rate for children
21 placed in a licensed or approved home pursuant to Section 11461.

22 (c) It is the intent of the Legislature to ensure that relative
23 guardians of children in long-term, stable placements who
24 previously were receiving kinship guardianship assistance
25 payments on behalf of those children under Article 4.5
26 (commencing with Section 11360) shall instead receive assistance
27 under this article to the extent that those children are otherwise
28 eligible under Subtitle IV-E (commencing with Section 470 of the
29 federal Social Security Act (42 U.S.C. Sec. 670 et seq.)).

30 (d) It is the intent of the Legislature that no county currently
31 participating in the Child Welfare Demonstration Capped
32 Allocation Project be adversely impacted by the department's
33 exercise of its option under Section 671(a)(28) of Title 42 of the
34 United States Code to enter into kinship assistance agreements as
35 provided in Section 673(d) of Title 42 of the United States Code.
36 Therefore, the department shall negotiate with the United States
37 Department of Health and Human Services on behalf of those
38 counties that are currently participating in the demonstration project
39 to insure that those counties receive reimbursement for these new
40 programs outside of the provisions of those counties' waiver under

1 Subtitle IV-E (commencing with Section 470 of the federal Social
2 Security Act (42 U.S.C. Sec. 670 et seq.)).

3 11386. Aid shall be provided under this article on behalf of a
4 child under 18 years of age, and to any eligible youth under 19
5 years of age, as provided in Section 11403, under all of the
6 following conditions:

7 (a) The child meets both of the following requirements:

8 (1) He or she has been removed from his or her home pursuant
9 to a voluntary placement agreement, or as a result of judicial
10 determination, including being adjudged a dependent child of the
11 court, pursuant to Section 300, or a ward of the court, pursuant to
12 Section 601 or 602, to the effect that continuation in the home
13 would be contrary to the welfare of the child.

14 (2) He or she has been eligible for federal foster care
15 maintenance payments under Article 5 (commencing with Section
16 11400) while residing for at least six consecutive months in the
17 approved home of the prospective relative guardian.

18 (b) Being returned to the parental home or adopted are not
19 appropriate permanency options for the child.

20 (c) The child demonstrates a strong attachment to the relative
21 guardian, and the relative guardian has a strong commitment to
22 caring permanently for the child and, with respect to the child who
23 has attained 12 years of age, the child has been consulted regarding
24 the kinship guardianship arrangement.

25 (d) The child has had a kinship guardianship with that relative
26 established as the result of the implementation of a permanent plan
27 pursuant to Section 360 or Section 366.26.

28 (e) The child has had his or her dependency jurisdiction
29 terminated pursuant to Section 366.3, or his or her wardship
30 terminated pursuant to subdivision (e) of Section 728, concurrently
31 or subsequently to the establishment of the kinship guardianship.

32 (f) If the conditions specified in subdivisions (a) through (e),
33 inclusive, are met and, subsequent to the termination of dependency
34 jurisdiction, any parent or person having an interest files with the
35 juvenile court a petition pursuant to Section 388 to change, modify,
36 or set aside an order of the court, Kin-GAP payments shall continue
37 unless and until the juvenile court orders the child removed from
38 the home of the guardian, terminates the guardianship, or otherwise
39 grants the relief requested in the petition after holding a hearing.

(g) Through December 31, 2011, Kin-GAP payments shall continue after the child's 18th birthday if the conditions specified in Section 11403 are met. Effective January 1, 2012, Kin-GAP payments shall continue for youths who have attained 18 years of age and are under 19 years of age if they attained 16 years of age before the Kin-GAP negotiated agreement payments commenced. Effective January 1, 2013, Kin-GAP payments shall continue for youths who have attained 18 years of age and are under 20 years of age, if they reached 16 years of age before the Kin-GAP negotiated payments commenced. Effective January 1, 2014, Kin-GAP payments shall continue for youths who have attained 18 years of age and are under 21 years of age, if they reached 16 years of age before the Kin-GAP negotiated payments commenced. To be eligible for continued payments, the youth shall meet one or more of the following criteria:

(1) The youth is completing secondary education or a program leading to an equivalent credential.

(2) The youth is enrolled in an institution which provides postsecondary or vocational education.

(3) The youth is participating in a program or activity designed to promote, or remove barriers to, employment.

(4) The youth is employed for at least 80 hours per month.

(5) The youth is incapable of doing any of the activities described in paragraphs (1) through (4), inclusive, due to a medical condition, and that incapability is supported by regularly updated information in the case plan of the youth.

Payments made to a nonminor pursuant to the conditions specified in Section 11403 or 11403.01 may be paid in whole or part to the eligible youth directly.

(h) Termination of the guardianship with a kinship guardian shall terminate eligibility for Kin-GAP, unless the conditions of Section 11403 apply, provided, however, that if an alternate guardian or coguardian is appointed pursuant to Section 366.3 who is also a kinship guardian, the alternate or coguardian shall be entitled to receive Kin-GAP on behalf of the child pursuant to this article. A new period of six months of placement with the alternate guardian or coguardian shall not be required if that alternate guardian or coguardian has been assessed pursuant to Section 361.3 and Section 361.4 and the court terminates dependency jurisdiction.

1 11387. (a) In order to receive federal financial participation
2 for payments under this article, the county child welfare agency
3 or probation department or Indian tribe that entered into an
4 agreement pursuant to Section 10553.1 shall negotiate and enter
5 into a written, binding, kinship guardianship assistance agreement
6 with the relative guardian of an eligible child, and provide the
7 relative guardian with a copy of the agreement.

8 (b) The agreement shall specify, at a minimum, all of the
9 following:

10 (1) The amount of and manner in which the kinship guardianship
11 assistance payment will be provided under the agreement, and the
12 manner in which the agreement may be adjusted periodically, but
13 no less frequently than every two years, in consultation with the
14 relative guardian, based on the circumstances of the relative
15 guardian and the needs of the child.

16 (2) Additional services and assistance for which the child and
17 relative guardian will be eligible under the agreement.

18 (3) A procedure by which the relative guardian may apply for
19 additional services, as needed, including, but not limited to, the
20 filing of a petition under Section 388 to have dependency
21 jurisdiction resumed pursuant to subdivision (b) of Section 366.3.

22 (c) The agreement shall provide that it shall remain in effect
23 regardless of the state of residency of the relative guardian.

24 (d) In accordance with the Kin-GAP agreement, the relative
25 guardian shall be paid an amount of aid based on the child's needs
26 otherwise covered in AFDC-FC payments and the circumstances
27 of the relative guardian but that shall not exceed the foster care
28 maintenance payment that would have been paid based on the
29 age-related state-approved foster family home care rate and any
30 applicable specialized care increment for a child placed in a
31 licensed or approved family home pursuant to subdivisions (a) to
32 (d), inclusive, of Section 11461. In addition, the rate paid for a
33 child eligible for a Kin-GAP payment shall include an amount
34 equal to the clothing allowance, as set forth in subdivision (f) of
35 Section 11461, including any applicable rate adjustments. For a
36 child eligible for a Kin-GAP payment who is a teen parent, the
37 rate shall include the two hundred dollar (\$200) monthly payment
38 made to the relative caregiver in a whole family foster home
39 pursuant to paragraph (3) of subdivision (d) of Section 11465.

(e) The county child welfare agency or probation department or Indian tribe that entered into an agreement pursuant to Section 10553.1 shall provide the prospective relative guardian with information, in writing, on the availability of the federal Kin-GAP program with an explanation of the difference between these benefits and Adoption Assistance Program benefits and AFDC-FC benefits. The agency shall also provide the prospective relative guardian with information on the availability of mental health services through the Medi-Cal program or other programs.

(f) The Kin-GAP agreement shall also specify the responsibility of the relative guardian for reporting changes in the needs of the child or the circumstances of the relative guardian that affect payment.

(g) The county child welfare agency, probation department, or Indian tribe, as appropriate, shall assess the needs of the child and the circumstances of the related guardian and is responsible for determining that the child meets the eligibility criteria for payment.

(h) Payments on behalf of a child who is a recipient of Kin-GAP benefits and who is also a consumer of regional center services shall be based on the rates established by the State Department of Social Services pursuant to Section 11464.

11388. If a federally eligible child described in Section 11386 has one or more siblings who are not so described, the child and any sibling of the child may be placed in the same kinship guardianship arrangement, in accordance with Section 671(a)(31) of Title 42 of the United States Code, if the county child welfare department or probation department or Indian tribe that entered into an agreement pursuant to Section 10553.1 and the prospective relative guardian agree on the appropriateness of the arrangement for the siblings. Kinship guardianship assistance payments may be paid on behalf of each sibling, at a per-child rate, placed in accordance with this section.

11389. A child eligible for a Kin-GAP payment under this article is categorically eligible for Medi-Cal at no share of cost pursuant to Section 473(b)(3) of the federal Social Security Act (42 U.S.C. Sec. 673(b)(3)).

11390. (a) A person who is a kinship guardian under this article, and who has met the requirements of Section 361.4, shall be exempt from Chapter 4.6 (commencing with Section 10830) of Part 2 governing the statewide fingerprint imaging system. A

1 guardian who is also an applicant for or a recipient of benefits
2 under the CalWORKS program, Chapter 2 (commencing with
3 Section 11200) of Part 3, or the Food Stamp program, Chapter 10
4 (commencing with Section 18900) of Part 6 shall comply with the
5 statewide fingerprint imaging system requirements applicable to
6 those programs.

7 (b) Any exemptions exercised pursuant to this section shall be
8 implemented in accordance with Section 11393.

9 (c) Income to the child, including the Kin-GAP payment, shall
10 not be considered income to the kinship guardian for purposes of
11 determining the kinship guardian's eligibility for any other aid
12 program, unless required by federal law as a condition of the receipt
13 of federal financial participation.

14 (d) Each county that formally had court-ordered jurisdiction
15 under Section 300 or Section 601 or 602 over a child receiving
16 benefits under the Kin-GAP Program shall be responsible for
17 paying the child's aid regardless of where the child actually resides.

18 (e) Notwithstanding any other provision of law, when a child
19 receiving benefits under the AFDC-FC foster care program
20 becomes eligible for benefits under the Kin-GAP Program during
21 any month, the child shall continue to receive benefits under the
22 AFDC-FC foster care program, as appropriate, to the end of that
23 calendar month, and Kin-GAP payments shall begin the first day
24 of the following month.

25 (f) All of the following shall apply to any child or nonminor in
26 receipt of Kin-GAP benefits:

27 (1) He or she is eligible to request and receive independent
28 living services pursuant to Section 10609.3.

29 (2) He or she may retain cash savings, not to exceed ten
30 thousand dollars (\$10,000), including interest, pursuant to Section
31 11155.5.

32 (3) He or she shall have earned income disregarded pursuant to
33 Section 11008.15.

34 11391. For purposes of this article, the following definitions
35 shall apply:

36 (a) "Kinship Guardianship Assistance Payments (Kin-GAP)"
37 means the aid provided on behalf of children eligible for federal
38 financial participation under Section 671(a)(28) of Title 42 of the
39 United States Code in kinship care under the terms of this article.

1 (b) “Kinship guardian” means a person who meets both of the
2 following criteria:

3 (1) He or she has been appointed the legal guardian of a
4 dependent child pursuant to Section 366.26 or Section 360.

5 (2) He or she is a relative of the child.

6 (c) “Relative” means an adult who is related to the child by
7 blood, adoption, or affinity within the fifth degree of kinship,
8 including stepparents, stepsiblings, and all relatives whose status
9 is preceded by the words “great,” “great-great,” or “grand” or the
10 spouse of any of those persons even if the marriage was terminated
11 by death or dissolution.

12 (d) “Sibling” means a child related to the identified eligible
13 child by blood, adoption or affinity through a common legal or
14 biological parent.

15 11392. On and after the date that the director executes a
16 declaration pursuant to Section 11217, for purposes of eligibility
17 under this article, children who are currently receiving Kin-GAP
18 pursuant to Article 4.5 (commencing with Section 11360) and who
19 were determined eligible under Subtitle IV-E (commencing with
20 Section 470 of the federal Social Security Act (42 U.S.C. Sec. 670
21 et seq.)) as dependent children of the juvenile court placed in foster
22 care with an approved relative and who remain under the court’s
23 jurisdiction pursuant to Section 366.4 shall be deemed to meet the
24 eligibility criteria as described in Section 673(d) of Title 42 of the
25 United States Code. On and after the date that the director executes
26 a declaration pursuant to Section 11217, the county child welfare
27 department, probation department, or Indian tribe, as appropriate,
28 at the time of each Subtitle IV-E eligible child’s Kin-GAP annual
29 redetermination, shall meet with the relative guardian and child
30 and enter into the negotiated agreement as described in Section
31 11387.

32 11393. (a) Notwithstanding the Administrative Procedure Act
33 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
34 Division 3 of Title 2 of the Government Code) the department may
35 implement the applicable provisions of the federally funded
36 Kin-GAP Program through all-county letters or similar instructions
37 from the director.

38 (b) The department shall develop both the all-county letter
39 instructions and regulations in consultation with concerned
40 stakeholders, including, but not limited to, the County Welfare

1 Directors Association, the Chief Probation Officers of California,
2 representatives of California Indian tribes, the California Youth
3 Connection, former foster youth, child advocacy organizations,
4 labor organizations, foster caregiver organizations, and researchers.

5 (c) The director shall adopt regulations as otherwise necessary,
6 to implement the applicable provisions of the federally funded
7 Kin-GAP Program. Emergency regulations to implement the
8 applicable provisions of this act may be adopted by the director
9 in accordance with the Administrative Procedure Act. The initial
10 adoption of the emergency regulations and one readoption of the
11 initial regulations shall be deemed to be an emergency and
12 necessary for the immediate preservation of the public peace,
13 health, safety, or general welfare. Initial emergency regulations
14 and the first readoption of those emergency regulations shall be
15 exempt from review by the Office of Administrative Law. The
16 emergency regulations authorized by this section shall be submitted
17 to the Office of Administrative Law for filing with the Secretary
18 of State and shall remain in effect for no more than 180 days.

19 SEC. 38. Section 11400 of the Welfare and Institutions Code
20 is amended to read:

21 11400. For the purposes of this article, the following definitions
22 shall apply:

23 (a) "Aid to Families with Dependent Children-Foster Care
24 (AFDC-FC)" means the aid provided on behalf of needy children
25 in foster care under the terms of this division.

26 (b) "Case plan" means a written document that, at a minimum,
27 specifies the type of home in which the child shall be placed, the
28 safety of that home, and the appropriateness of that home to meet
29 the child's needs. It shall also include the agency's plan for
30 ensuring that the child receive proper care and protection in a safe
31 environment, and shall set forth the appropriate services to be
32 provided to the child, the child's family, and the foster parents, in
33 order to meet the child's needs while in foster care, and to reunify
34 the child with the child's family. In addition, the plan shall specify
35 the services that will be provided or steps that will be taken to
36 facilitate an alternate permanent plan if reunification is not possible.

37 (c) "Certified family home" means a family residence certified
38 by a licensed foster family agency and issued a certificate of
39 approval by that agency as meeting licensing standards, and used
40 only by that foster family agency for placements.

1 (d) “Family home” means the family residency of a licensee in
2 which 24-hour care and supervision are provided for children.

3 (e) “Small family home” means any residential facility, in the
4 licensee’s family residence, which provides 24-hour care for six
5 or fewer foster children who have mental disorders or
6 developmental or physical disabilities and who require special care
7 and supervision as a result of their disabilities.

8 (f) “Foster care” means the 24-hour out-of-home care provided
9 to children whose own families are unable or unwilling to care for
10 them, and who are in need of temporary or long-term substitute
11 parenting.

12 (g) “Foster family agency” means any individual or organization
13 engaged in the recruiting, certifying, and training of, and providing
14 professional support to, foster parents, or in finding homes or other
15 places for placement of children for temporary or permanent care
16 who require that level of care as an alternative to a group home.
17 Private foster family agencies shall be organized and operated on
18 a nonprofit basis.

19 (h) “Group home” means a nondetention privately operated
20 residential home, organized and operated on a nonprofit basis only,
21 of any capacity, or a nondetention licensed residential care home
22 operated by the County of San Mateo with a capacity of up to 25
23 beds, that provides services in a group setting to children in need
24 of care and supervision, as required by paragraph (1) of subdivision
25 (a) of Section 1502 of the Health and Safety Code.

26 (i) “Periodic review” means review of a child’s status by the
27 juvenile court or by an administrative review panel, that shall
28 include a consideration of the safety of the child, a determination
29 of the continuing need for placement in foster care, evaluation of
30 the goals for the placement and the progress toward meeting these
31 goals, and development of a target date for the child’s return home
32 or establishment of alternative permanent placement.

33 (j) “Permanency planning hearing” means a hearing conducted
34 by the juvenile court in which the child’s future status, including
35 whether the child shall be returned home or another permanent
36 plan shall be developed, is determined.

37 (k) “Placement and care” refers to the responsibility for the
38 welfare of a child vested in an agency or organization by virtue of
39 the agency or organization having (1) been delegated care, custody,
40 and control of a child by the juvenile court, (2) taken responsibility,

1 pursuant to a relinquishment or termination of parental rights on
2 a child, (3) taken the responsibility of supervising a child detained
3 by the juvenile court pursuant to Section 319 or 636, or (4) signed
4 a voluntary placement agreement for the child's placement; or to
5 the responsibility designated to an individual by virtue of his or
6 her being appointed the child's legal guardian.

7 (l) "Preplacement preventive services" means services that are
8 designed to help children remain with their families by preventing
9 or eliminating the need for removal.

10 (m) "Relative" means an adult who is related to the child by
11 blood, adoption, or affinity within the fifth degree of kinship,
12 including stepparents, stepsiblings, and all relatives whose status
13 is preceded by the words "great," "great-great," or "grand" or the
14 spouse of any of these persons even if the marriage was terminated
15 by death or dissolution.

16 (n) "Nonrelative extended family member" means an adult
17 caregiver who has an established familial or mentoring relationship
18 with the child, as described in Section 362.7.

19 (o) "Voluntary placement" means an out-of-home placement
20 of a child by (1) the county welfare department, probation
21 department, or Indian tribe that has entered into an agreement
22 pursuant to Section 10553.1, after the parents or guardians have
23 requested the assistance of the county welfare department and have
24 signed a voluntary placement agreement; or (2) the county welfare
25 department licensed public or private adoption agency, or the
26 department acting as an adoption agency, after the parents have
27 requested the assistance of either the county welfare department,
28 the licensed public or private adoption agency, or the department
29 acting as an adoption agency for the purpose of adoption planning,
30 and have signed a voluntary placement agreement.

31 (p) "Voluntary placement agreement" means a written agreement
32 between either the county welfare department, probation
33 department, or Indian tribe that has entered into an agreement
34 pursuant to Section 10553.1, licensed public or private adoption
35 agency, or the department acting as an adoption agency, and the
36 parents or guardians of a child that specifies, at a minimum, the
37 following:

38 (1) The legal status of the child.

39 (2) The rights and obligations of the parents or guardians, the
40 child, and the agency in which the child is placed.

1 (q) “Original placement date” means the most recent date on
2 which the court detained a child and ordered an agency to be
3 responsible for supervising the child or the date on which an agency
4 assumed responsibility for a child due to termination of parental
5 rights, relinquishment, or voluntary placement.

6 (r) “Transitional housing placement facility” means either of
7 the following:

8 (1) A community care facility licensed by the State Department
9 of Social Services pursuant to Section 1559.110 of the Health and
10 Safety Code to provide transitional housing opportunities to persons
11 at least 16 years of age, and not more than 18 years of age unless
12 they satisfy the requirements of Section 11403, who are in
13 out-of-home placement under the supervision of the county
14 department of social services or the county probation department,
15 and who are participating in an independent living program.

16 (2) A facility certified to provide transitional housing services
17 pursuant to subdivision (e) of Section 1559.110 of the Health and
18 Safety Code.

19 (s) “Transitional housing placement program” means a program
20 that provides supervised housing opportunities to eligible youth
21 and nonminor dependents pursuant to Article 4 (commencing with
22 Section 16522) of Chapter 5 of Part 4.

23 (t) “Whole family foster home” means a new or existing family
24 home, approved relative caregiver or nonrelative extended family
25 member’s home, the home of a nonrelated legal guardian whose
26 guardianship was established pursuant to Section 366.26 or 360,
27 certified family home that provides foster care for a minor or
28 nonminor dependent parent and his or her child, and is specifically
29 recruited and trained to assist the minor or nonminor dependent
30 parent in developing the skills necessary to provide a safe, stable,
31 and permanent home for his or her child. The child of the minor
32 or nonminor dependent parent need not be the subject of a petition
33 filed pursuant to Section 300 to qualify for placement in a whole
34 family foster home.

35 (u) “Mutual agreement” means, on and after January 1, 2012,
36 an agreement between a nonminor dependent and the agency
37 responsible for the foster care placement.

38 (v) “Nonminor dependent” means, on and after January 1, 2012,
39 a current or former dependent child or ward of the juvenile court
40 who satisfies all of the following criteria:

1 (1) He or she has attained 18 years of age but is less than 21
2 years of age.

3 (2) He or she is in foster care under the responsibility of the
4 county welfare department, county probation department, or Indian
5 tribe that entered into an agreement pursuant to Section 10553.1.

6 (3) He or she is participating in a transitional independent living
7 case plan pursuant to Section 475(8) of the federal Social Security
8 Act (42 U.S.C. Sec. 675(8)), as contained in the Fostering
9 Connections to Success and Increasing Adoptions Act of 2008
10 (Public Law 110-351).

11 (w) “Supervised independent living setting” means, on and after
12 January 1, 2012, a supervised setting, as specified in a nonminor
13 dependent’s transitional independent living case plan, in which
14 the youth is living independently, pursuant to Section 472(c)(2)
15 of the Social Security Act (42 U.S.C. Sec. 672(c)(2)).

16 (x) “THP-Plus Foster Care” means, on and after January 1,
17 2012, a placement that offers supervised housing opportunities
18 and supportive services to eligible nonminor dependents at least
19 18 years of age, on and after January 1, 2013, 19 years of age, and
20 on and after January 1, 2014, 20 years of age, and not more than
21 21 years of age, who are in out-of-home placement under the
22 supervision of the county department of social services or the
23 county probation department or Indian tribe that entered into an
24 agreement pursuant to Section 10553.1, and who are described in
25 paragraph (3) of subdivision (a) of Section 11403.2.

26 SEC. 39. Section 11401 of the Welfare and Institutions Code,
27 as amended by Section 2 of Chapter 4 of the Eighth Extraordinary
28 Session of the Statutes of 2010, is amended to read:

29 11401. Aid in the form of AFDC-FC shall be provided under
30 this chapter on behalf of any child under 18 years of age, and, on
31 and after January 1, 2012, to any nonminor dependent, except as
32 provided in Section 11403, who meets the conditions of subdivision
33 (a), (b), (c), (d), (e), (f), (g), or (h):

34 (a) The child has been relinquished, for purposes of adoption,
35 to a licensed adoption agency, or the department, or the parental
36 rights of either or both of his or her parents have been terminated
37 after an action under the Family Code has been brought by a
38 licensed adoption agency or the department, provided that the
39 licensed adoption agency or the department, if responsible for

1 placement and care, provides to those children all services as
2 required by the department to children in foster care.

3 (b) The child has been removed from the physical custody of
4 his or her parent, relative, or guardian as a result of a voluntary
5 placement agreement or a judicial determination that continuance
6 in the home would be contrary to the child's welfare and that, if
7 the child was placed in foster care, reasonable efforts were made,
8 consistent with Chapter 5 (commencing with Section 16500) of
9 Part 4, to prevent or eliminate the need for removal of the child
10 from his or her home and to make it possible for the child to return
11 to his or her home, and any of the following applies:

12 (1) The child has been adjudged a dependent child of the court
13 on the grounds that he or she is a person described by Section 300.

14 (2) The child has been adjudged a ward of the court on the
15 grounds that he or she is a person described by Sections 601 and
16 602.

17 (3) The child has been detained under a court order, pursuant
18 to Section 319 or 636, that remains in effect.

19 (4) The child's dependency jurisdiction has resumed pursuant
20 to Section 387, or subdivision (a) or (e) of Section 388.

21 (c) The child has been voluntarily placed by his or her parent
22 or guardian pursuant to Section 11401.1.

23 (d) The child is living in the home of a nonrelated legal guardian.

24 (e) On and after January 1, 2012, the child is a nonminor
25 dependent who is placed pursuant to Section 11403 under the
26 responsibility of the county welfare department, an Indian tribe
27 that entered into an agreement pursuant to Section 10553.1, or the
28 county probation department.

29 (f) The child has been placed in foster care under the federal
30 Indian Child Welfare Act. Sections 11402, 11404, and 11405 shall
31 not be construed as limiting payments to Indian children, as defined
32 in the federal Indian Child Welfare Act, placed in accordance with
33 that act.

34 (g) To be eligible for federal financial participation, the
35 conditions described in paragraph (1), (2), (3), or (4) shall be
36 satisfied:

37 (1) (A) The child meets the conditions of subdivision (b).

38 (B) The child has been deprived of parental support or care for
39 any of the reasons set forth in Section 11250.

1 (C) The child has been removed from the home of a relative as
2 defined in Section 233.90(c)(1) of Title 45 of the Code of Federal
3 Regulations, as amended.

4 (D) The requirements of Sections 671 and 672 of Title 42 of
5 the United States Code, as amended, have been met.

6 (2) (A) The child meets the requirements of subdivision (h).

7 (B) The requirements of Sections 671 and 672 of Title 42 of
8 the United States Code, as amended, have been met.

9 (C) This paragraph shall be implemented only if federal financial
10 participation is available for the children described in this
11 paragraph.

12 (3) (A) The child has been removed from the custody of his or
13 her parent, relative, or guardian as a result of a voluntary placement
14 agreement or a judicial determination that continuance in the home
15 would be contrary to the child's welfare and that, if the child was
16 placed in foster care, reasonable efforts were made, consistent with
17 Chapter 5 (commencing with Section 16500) of Part 4, to prevent
18 or eliminate the need for removal of the child from his or her home
19 and to make it possible for the child to return to his or her home,
20 and any of the following applies:

21 (i) The child has been adjudged a dependent child of the court
22 on the grounds that he or she is a person described by Section 300.

23 (ii) The child has been adjudged a ward of the court on the
24 grounds that he or she is a person described by Sections 601 and
25 602.

26 (iii) The child has been detained under a court order, pursuant
27 to Section 319 or 636, that remains in effect.

28 (iv) The child's dependency jurisdiction has resumed pursuant
29 to Section 387.

30 (B) The child has been placed in an eligible foster care
31 placement, as set forth in Section 11402.

32 (C) The requirements of Sections 671 and 672 of Title 42 of
33 the United States Code have been satisfied.

34 (D) This paragraph shall be implemented only if federal financial
35 participation is available for the children described in this
36 paragraph.

37 (4) With respect to a nonminor dependent, in addition to meeting
38 the conditions specified in paragraph (1), the requirements of
39 Section 675(8)(B) of Title 42 of the United States Code have been
40 satisfied.

1 (h) The child meets all of the following conditions:

2 (1) The child has been adjudged to be a dependent child or ward
3 of the court on the grounds that he or she is a person described in
4 Section 300.

5 (2) The child's parent also has been adjudged to be a dependent
6 child or nonminor dependent of the court on the grounds that he
7 or she is a person described by Section 300 or Section 602 and is
8 receiving benefits under this chapter.

9 (3) The child is placed in the same licensed or approved foster
10 care facility in which his or her parent is placed and the child's
11 parent is receiving reunification services with respect to that child.

12 SEC. 40. Section 11401.05 is added to the Welfare and
13 Institutions Code, to read:

14 11401.05. The department shall amend the foster care state
15 plan required under Subtitle IV-E (commencing with Section 470
16 of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.)), to
17 extend benefits under this article, commencing January 1, 2012,
18 to an individual who is in foster care under the responsibility of
19 the state, or with respect to whom an adoption assistance agreement
20 or a kinship guardianship assistance agreement is in effect, in
21 accordance with the federal Fostering Connections to Success and
22 Increasing Adoptions Act of 2008 (Public Law 110-351).

23 SEC. 41. Section 11401.1 of the Welfare and Institutions Code
24 is amended to read:

25 11401.1. (a) Otherwise eligible children placed voluntarily
26 prior to January 1, 1981, may remain eligible for AFDC-FC
27 payments.

28 (b) Beginning on January 1, 1982, AFDC-FC payments for
29 children placed voluntarily on or after January 1, 1981, shall be
30 limited to a period of up to 180 days under conditions specified
31 by departmental regulations, and may be extended an additional
32 six months pursuant to Section 16507.3 and departmental
33 regulations.

34 This section shall become operative on January 1, 1984.

35 SEC. 42. Section 11401.4 of the Welfare and Institutions Code
36 is amended to read:

37 11401.4. A child living with his or her parent who is a minor
38 or, on and after January 1, 2012, a nonminor dependent and a
39 recipient of AFDC-FC benefits shall be deemed a child with respect
40 to whom AFDC-FC payments are made.

1 SEC. 43. Section 11401.5 of the Welfare and Institutions Code
2 is amended to read:

3 11401.5. (a) The county shall redetermine AFDC-FC eligibility
4 annually and no less than required under federal law. This shall
5 include an examination of any circumstances of a foster child that
6 are subject to change and could effect the child's potential
7 eligibility, including, but not limited to, deprivation, financial need,
8 authority for placement, eligible facility, and age.

9 (b) At the time of the redetermination, the parent or legal
10 guardian from whom the child was removed shall complete a
11 statement of facts supporting continued eligibility. If the parent or
12 legal guardian is unavailable or uncooperative, the county shall
13 complete the statement of facts on the child's behalf.

14 (c) On and after January 1, 2012, in the case of a nonminor
15 dependent who is placed pursuant to a mutual agreement, the
16 nonminor dependent shall complete a statement of facts supporting
17 continued eligibility.

18 SEC. 44. Section 11402 of the Welfare and Institutions Code,
19 as amended by Section 7 of Chapter 288 of the Statutes of 2007,
20 is amended to read:

21 11402. In order to be eligible for AFDC-FC, a child shall be
22 placed in one of the following:

23 (a) The approved home of a relative, provided the child is
24 otherwise eligible for federal financial participation in the
25 AFDC-FC payment.

26 (b) (1) The licensed family home of a nonrelative.

27 (2) The approved home of a nonrelative extended family
28 member as described in Section 362.7.

29 (c) A licensed group home, as defined in subdivision (h) of
30 Section 11400, provided that the placement worker has documented
31 that the placement is necessary to meet the treatment needs of the
32 child and that the facility offers those treatment services.

33 (d) The home of a nonrelated legal guardian or the home of a
34 former nonrelated legal guardian when the guardianship of a child
35 who is otherwise eligible for AFDC-FC has been dismissed due
36 to the child's attaining 18 years of age.

37 (e) An exclusive-use home.

38 (f) A licensed transitional housing placement facility, as
39 described in Section 1559.110 of the Health and Safety Code, and
40 as defined in Section 11400.

1 (g) An out-of-state group home, provided that the placement
2 worker, in addition to complying with all other statutory
3 requirements for placing a minor in an out-of-state group home,
4 documents that the requirements of Section 7911.1 of the Family
5 Code have been met.

6 (h) A licensed crisis nursery, as described in Section 1516 of
7 the Health and Safety Code, and as defined in subdivision (a) of
8 Section 11400.1.

9 (i) A supervised independent living setting for nonminor
10 dependents, as defined in Section 11400.

11 (j) This section shall remain in effect only until July 1, 2011,
12 and as of that date is repealed, unless a later enacted statute, that
13 is enacted before July 1, 2011, deletes or extends that date.

14 SEC. 45. Section 11402 of the Welfare and Institutions Code,
15 as amended by Section 8 of Chapter 288 of the Statutes of 2007,
16 is amended to read:

17 11402. In order to be eligible for AFDC-FC, a child shall be
18 placed in one of the following:

19 (a) The approved home of a relative, provided the child is
20 otherwise eligible for federal financial participation in the
21 AFDC-FC payment.

22 (b) (1) The licensed family home of a nonrelative.

23 (2) The approved home of a nonrelative extended family
24 member as described in Section 362.7.

25 (c) A licensed group home, as defined in subdivision (h) of
26 Section 11400, provided that the placement worker has documented
27 that the placement is necessary to meet the treatment needs of the
28 child and that the facility offers those treatment services.

29 (d) The home of a nonrelated legal guardian or the home of a
30 former nonrelated legal guardian when the guardianship of a child
31 who is otherwise eligible for AFDC-FC has been dismissed due
32 to the child's attaining 18 years of age.

33 (e) An exclusive-use home.

34 (f) A licensed transitional housing placement facility as
35 described in Section 1559.110 of the Health and Safety Code and
36 as defined in Section 11400.

37 (g) An out-of-state group home, provided that the placement
38 worker, in addition to complying with all other statutory
39 requirements for placing a minor in an out-of-state group home,

1 documents that the requirements of Section 7911.1 of the Family
2 Code have been met.

3 (h) A supervised independent living setting for nonminor
4 dependents, as defined in Section 11400.

5 (i) This section shall become operative on July 1, 2011.

6 SEC. 46. Section 11403 of the Welfare and Institutions Code
7 is amended to read:

8 11403. (a) A child who is in foster care and receiving aid
9 pursuant to this chapter and who is attending high school or the
10 equivalent level of vocational or technical training on a full-time
11 basis, or who is in the process of pursuing a high school
12 equivalency certificate, prior to his or her 18th birthday, may
13 continue to receive aid following his or her 18th birthday so long
14 as the child continues to reside in foster care placement, remains
15 otherwise eligible for AFDC-FC payments, and continues to attend
16 high school or the equivalent level of vocational or technical
17 training on a full-time basis, or continues to pursue a high school
18 equivalency certificate, and the child may reasonably be expected
19 to complete the educational or training program or to receive a
20 high school equivalency certificate, before his or her 19th birthday.
21 Aid shall be provided to an individual pursuant to this section
22 provided both the individual and the agency responsible for the
23 foster care placement have signed a mutual agreement, if the
24 individual is capable of making an informed agreement, which
25 documents the continued need for out-of-home placement.

26 (b) This section shall remain in effect only until January 1, 2012,
27 and as of that date is repealed, unless a later enacted statute, that
28 is enacted before January 1, 2012, deletes or extends that date.

29 SEC. 47. Section 11403 is added to the Welfare and Institutions
30 Code, to read:

31 11403. (a) It is the intent of the Legislature to exercise the
32 option afforded states under Section 475(8) (42 U.S.C. Sec.
33 675(8)), and Section 473(a)(4) (42 U.S.C. Sec. 673(a)(4)) of the
34 Social Security Act, as contained in the Fostering Connections to
35 Success and Increasing Adoptions Act of 2008 (Public Law
36 110-351), to receive federal financial participation for current or
37 former dependent children or wards of the juvenile court who meet
38 the conditions of subdivision (b). Effective January 1, 2012, these
39 nonminor dependents shall be eligible to receive support up to 19
40 years of age, effective January 1, 2013, up to 20 years of age, and

1 effective January 1, 2014, up to 21 years of age, consistent with
2 their transitional independent living case plan.

3 (b) A nonminor dependent receiving aid pursuant to this chapter,
4 who satisfies the age criteria set forth in subdivision (a), shall
5 continue to receive aid so long as the nonminor is otherwise eligible
6 for AFDC-FC payments pursuant to Section 11401 or CalWORKs
7 payments pursuant to Section 11253 or aid pursuant to Kin-GAP
8 under Article 4.5 (commencing with Section 11360) or Article 4.7
9 (commencing with Section 11385) or adoption assistance payments
10 as specified in Chapter 2.1 (commencing with Section 16115) of
11 Part 4. Effective January 1, 2012, a nonminor former dependent
12 child of the juvenile court who is receiving AFDC-FC benefits
13 pursuant to Section 11405 shall be eligible to continue to receive
14 aid up to 19 years of age, effective January 1, 2013, up to 20 years
15 of age, and effective January 1, 2014, up to 21 years of age, as
16 long as the nonminor is otherwise eligible for AFDC-FC benefits
17 under this subdivision. This subdivision shall apply when one or
18 more of the following conditions exist:

19 (1) The nonminor is completing secondary education or a
20 program leading to an equivalent credential.

21 (2) The nonminor is enrolled in an institution which provides
22 postsecondary or vocational education.

23 (3) The nonminor is participating in a program or activity
24 designed to promote, or remove barriers to employment.

25 (4) The nonminor is employed for at least 80 hours per month.

26 (5) The nonminor is incapable of doing any of the activities
27 described in subparagraphs (1) to (4), inclusive, due to a medical
28 condition, and that incapability is supported by regularly updated
29 information in the case plan of the nonminor.

30 (c) The county child welfare or probation department or Indian
31 tribe that has entered into an agreement pursuant to Section
32 10553.1, shall actively assist a nonminor dependent who is in foster
33 care on his or her 18th birthday or a nonminor former dependent
34 receiving aid pursuant to Section 11405, to meet one or more of
35 the conditions described in paragraphs (1) to (5), inclusive, of
36 subdivision (b) and shall certify the nonminor's applicable
37 condition to the eligibility worker. The nonminor dependent or a
38 nonminor former dependent receiving aid pursuant to Section
39 11405, shall be presumed to continuously meet one or more of the
40 conditions described in paragraphs (1) to (5), inclusive, of

1 subdivision (b) unless and until the social worker or probation
2 officer documents to the court, or to the eligibility worker for the
3 nonminor former dependent receiving aid pursuant to Section
4 11405, that the nonminor dependent does not meet at least one of
5 the conditions. In no case shall aid under this section be terminated
6 unless the court terminates dependency jurisdiction over the
7 nonminor pursuant to Section 391, or delinquency jurisdiction
8 pursuant to Section 785. The nonminor dependent or a nonminor
9 former dependent receiving aid pursuant to Section 11405, shall
10 be afforded all due process requirements in accordance with state
11 and federal law prior to an involuntary termination of aid. Any
12 notices of action regarding eligibility shall be sent to the nonminor
13 dependent or former dependent and his or her counsel, in addition
14 to any other payee.

15 (d) A nonminor dependent may receive all or a portion of the
16 payment directly provided that both the youth and the agency
17 responsible for the foster care placement have signed a mutual
18 agreement, if the youth is capable of making an informed
19 agreement, which documents the continued need for out-of-home
20 placement.

21 (e) Eligibility for aid under this section shall not terminate until
22 the nonminor attains 21 years of age but aid may be suspended
23 and resumed at request of the nonminor pursuant to subdivision
24 (e) of Section 388 or after a court terminates dependency
25 jurisdiction pursuant to Section 391, or delinquency jurisdiction
26 pursuant to Section 785. The county welfare department, tribe, or
27 county probation department shall provide a nonminor dependent
28 who wishes to continue receiving aid with the assistance necessary
29 to meet and maintain eligibility.

30 (f) (1) The county having jurisdiction of the nonminor
31 dependent shall remain the county of payment under this section
32 regardless of the youth's physical residence. Nonminor dependents
33 receiving aid pursuant to Section 11405 shall be paid by their
34 county of residence. Counties may develop courtesy supervision
35 agreements to provide case management and independent living
36 services by the county of residence pursuant to the youth's
37 transitional independent living case plan. Placements made out of
38 state are subject to the requirements of the Interstate Compact on
39 Juveniles pursuant to Chapter 4 (commencing with Section 1300)
40 of Part 1 of Division 2.

1 (2) The county welfare department, tribe, or county probation
2 department shall notify all foster youth who attain 16 years of age
3 and are under the jurisdiction of that county or tribe, including
4 those receiving Kin-GAP, and AAP, of the existence of the aid
5 prescribed by this section.

6 (3) Aid under this section shall be paid on the first of the month
7 for that month. Notwithstanding any other provision of law, when
8 a child attains 18 years of age those payments shall continue to
9 the end of that calendar month and the AFDC-FC, Kin-GAP, or
10 AAP payments under this section shall begin the first day of the
11 following month.

12 (4) The department shall seek any waiver to amend its Title
13 IV-E State Plan with the Secretary of the United States Department
14 of Health and Human Services necessary to implement this section.

15 (g) It is the intent of the Legislature that no county currently
16 participating in the Child Welfare Demonstration Capped
17 Allocation Project be adversely impacted by the department's
18 exercise of its option to extend foster care benefits pursuant to
19 Section 673(a)(4) and Section 675(8) of Title 42 of the United
20 States Code in the federal Social Security Act, as contained in the
21 Fostering Connections to Success and Increasing Adoptions Act
22 of 2008 (Public Law 110-351). Therefore, the department shall
23 negotiate with the United States Department of Health and Human
24 Services on behalf of those counties that are currently participating
25 in the demonstration project to ensure that those counties receive
26 reimbursement for these new programs outside of the provisions
27 of those counties' waiver under Subtitle IV-E (commencing with
28 Section 470) of the federal Social Security Act (42 U.S.C. Sec.
29 670 et seq.).

30 (h) The department, on or before July 1, 2011, shall develop
31 regulations to implement this section in consultation with
32 concerned stakeholders, including, but not limited to,
33 representatives of the Legislature, the County Welfare Directors
34 Association, the Chief Probation Officers of California, the Judicial
35 Council, representatives of Indian tribes, the California Youth
36 Connection, former foster youth, child advocacy organizations,
37 labor organizations, juvenile justice advocacy organizations, foster
38 caregiver organizations, and researchers. In the development of
39 these regulations, the department shall consider its Manual of
40 Policy and Procedures, Division 30, Chapter 30-912, 913, 916,

1 and 917, as guidelines for developing regulations that are
2 appropriate for young adults who can exercise incremental
3 responsibility concurrently with their growth and development.
4 The department, in its consultation, shall take into consideration
5 the impact to the Automated Child Welfare Services Case
6 Management Services (CWS-CMS) and required modifications
7 needed to accommodate eligibility determination under this section,
8 benefit issuance, case management across counties, and recognition
9 of the legal status of nonminor dependents as adults, as well as
10 changes to data tracking and reporting requirements as required
11 by the Child Welfare System Improvement and Accountability
12 Act as specified in Section 10601.2, and federal outcome measures
13 as required by the John H. Chafee Foster Care Independence
14 Program (42 U.S.C. Sec. 677(f)). In addition, the department, in
15 its consultation, shall define the supervised independent living
16 setting which shall include, but not be limited to, apartment living,
17 room and board arrangements, college or university dormitories,
18 and shared roommate settings, and define how those settings meet
19 health and safety standards suitable for nonminors.

20 (i) Notwithstanding the Administrative Procedure Act, Chapter
21 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
22 Title 2 of the Government Code, the department shall prepare for
23 implementation of the applicable provisions of this section by
24 publishing, after consultation with the stakeholders listed in
25 subdivision (f), all-county letters or similar instructions from the
26 director by July 1, 2012, to apply from January 1, 2012, to June
27 30, 2013, inclusive. Emergency regulations to implement the
28 applicable provisions of this act may be adopted by the director
29 in accordance with the Administrative Procedure Act. The initial
30 adoption of the emergency regulations and one readoption of the
31 emergency regulations shall be deemed to be an emergency and
32 necessary for the immediate preservation of the public peace,
33 health, safety, or general welfare. Initial emergency regulations
34 and the first readoption of those emergency regulations shall be
35 exempt from review by the Office of Administrative Law. The
36 emergency regulations authorized by this section shall be submitted
37 to the Office of Administrative Law for filing with the Secretary
38 of State and shall remain in effect for no more than 180 days.

39 (j) This section shall become operative on January 1, 2012.

1 SEC. 48. Section 11403.2 of the Welfare and Institutions Code
2 is amended to read:

3 11403.2. (a) The following persons shall be eligible for
4 transitional housing placement program services provided pursuant
5 to Article 4 (commencing with Section 16522) of Chapter 5 of
6 Part 4:

7 (1) Any minor at least 16 years of age and not more than 18
8 years of age, and, on or after January 1, 2012, any nonminor
9 dependent who is less than 21 years of age, who is eligible for
10 AFDC-FC benefits as provided in Section 11403, and who also
11 meets the requirements in Section 16522.2.

12 (2) Any person less than 24 years of age who has emancipated
13 from a county that has elected to participate in a transitional
14 housing placement program for youths who are at least 18 years
15 of age and under 24 years of age, as described in subdivision (r)
16 of Section 11400, provided he or she has not received services
17 under this paragraph for more than a total of 24 months, whether
18 or not consecutive. If the person participating in a transitional
19 housing placement program is not receiving aid under Section
20 11403.1, he or she, as a condition of participation, shall enter into,
21 and execute the provisions of, a transitional independent living
22 plan that shall be mutually agreed upon, and annually reviewed,
23 by the emancipated foster youth and the county welfare or
24 probation department or independent living program coordinator.
25 The youth participating under this paragraph shall inform the
26 county of any changes to conditions specified in the agreed-upon
27 plan that affect eligibility, including changes in address, living
28 circumstances, and the educational or training program.

29 (3) It is the intent of the Legislature to create a new placement
30 option, known as THP-Plus-Foster Care. On and after January 1,
31 2012, THP-Plus Foster-Care shall offer the same housing models
32 and supportive services as are available through the standard
33 THP-Plus program available to emancipated foster youths pursuant
34 to paragraph (2).

35 (4) On and after January 1, 2012, any nonminor dependent at
36 least 18 years of age, and on January 1, 2013, 19 years of age, and
37 on January 1, 2014, 20 years of age, and not more than 21 years
38 of age, as described in subdivision (v) of Section 11400, pursuant
39 to subdivision (x) of Section 11400.

(b) Payment on behalf of an eligible person receiving transitional housing services shall be made to the transitional housing placement program pursuant to the conditions and limitations set forth in Section 11403.3.

(c) On and after January 1, 2012, with respect to nonminor dependents under 21 years of age, the approval standards for these legal adults placed in the THP-Plus-Foster Care shall be developed in accordance with Section 1502.7 of the Health and Safety Code. When developing regulations for the THP-Plus programs, the department shall consider the development of an application fee process for the programs, similar to the fee schedule as described in Section 1523.1 of the Health and Safety Code. An approved THP-Plus program shall certify facilities or sites to provide transitional housing services to nonminor dependents pursuant to subdivision (e) of Section 1559.110 of the Health and Safety Code.

SEC. 49. Section 11405 of the Welfare and Institutions Code is amended to read:

11405. (a) AFDC-FC benefits shall be paid to an otherwise eligible child living with a nonrelated legal guardian, provided that the legal guardian cooperates with the county welfare department in all of the following:

(1) Developing a written assessment of the child's needs.
(2) Updating the assessment no less frequently than once every six months.

(3) Carrying out the case plan developed by the county.

(b) When AFDC-FC is applied for on behalf of a child living with a nonrelated legal guardian the county welfare department shall do all of the following:

(1) Develop a written assessment of the child's needs.
(2) Update those assessments no less frequently than once every six months.
(3) Develop a case plan that specifies how the problems identified in the assessment are to be addressed.

(4) Make visits to the child as often as appropriate, but in no event less often than once every six months.

(c) Where the child is a parent and has a child living with him or her in the same eligible facility, the assessment required by paragraph (1) of subdivision (a) shall include the needs of his or her child.

(d) Nonrelated legal guardians of eligible children who are in receipt of AFDC-FC payments described in this section shall be exempt from the requirement to register with the Statewide Registry of Private Professional Guardians pursuant to Sections 2850 and 2851 of the Probate Code.

(e) On and after January 1, 2012, a nonminor youth whose nonrelated guardianship was ordered in juvenile court pursuant to Section 360 or 366.26, and whose dependency was dismissed, shall remain eligible for AFDC-FC benefits until the youth attains 19 years of age, effective January 1, 2013, until the youth attains 20 years of age, and effective January 1, 2014, until the youth attains 21 years of age, provided that the youth enters into a mutual agreement with the agency responsible for his or her guardianship, and the youth is meeting the conditions of eligibility, as described in Section 11403.

SEC. 50. Section 11450 of the Welfare and Institutions Code is amended to read:

11450. (a) (1) Aid shall be paid for each needy family, which shall include all eligible brothers and sisters of each eligible applicant or recipient child and the parents of the children, but shall not include unborn children, or recipients of aid under Chapter 3 (commencing with Section 12000), qualified for aid under this chapter. In determining the amount of aid paid, and notwithstanding the minimum basic standards of adequate care specified in Section 11452, the family's income, exclusive of any amounts considered exempt as income or paid pursuant to subdivision (e) or Section 11453.1, averaged for the prospective quarter pursuant to Sections 11265.2 and 11265.3, and then calculated pursuant to Section 11451.5, shall be deducted from the sum specified in the following table, as adjusted for cost-of-living increases pursuant to Section 11453 and paragraph (2). In no case shall the amount of aid paid for each month exceed the sum specified in the following table, as adjusted for cost-of-living increases pursuant to Section 11453 and paragraph (2), plus any special needs, as specified in subdivisions (c), (e), and (f):

Number of eligible needy persons in the same home	Maximum aid
--	----------------

1	1.....	\$ 326
2	2.....	535
3	3.....	663
4	4.....	788
5	5.....	899
6	6.....	1,010
7	7.....	1,109
8	8.....	1,209
9	9.....	1,306
10	10 or more.....	1,403

11
 12 If, when, and during those times that the United States
 13 government increases or decreases its contributions in assistance
 14 of needy children in this state above or below the amount paid on
 15 July 1, 1972, the amounts specified in the above table shall be
 16 increased or decreased by an amount equal to that increase or
 17 decrease by the United States government, provided that no
 18 increase or decrease shall be subject to subsequent adjustment
 19 pursuant to Section 11453.

20 (2) The sums specified in paragraph (1) shall not be adjusted
 21 for cost of living for the 1990–91, 1991–92, 1992–93, 1993–94,
 22 1994–95, 1995–96, 1996–97, and 1997–98 fiscal years, and through
 23 October 31, 1998, nor shall that amount be included in the base
 24 for calculating any cost-of-living increases for any fiscal year
 25 thereafter. Elimination of the cost-of-living adjustment pursuant
 26 to this paragraph shall satisfy the requirements of Section 11453.05,
 27 and no further reduction shall be made pursuant to that section.

28 (b) When the family does not include a needy child qualified
 29 for aid under this chapter, aid shall be paid to a pregnant mother
 30 for the month in which the birth is anticipated and for the
 31 three-month period immediately prior to the month in which the
 32 birth is anticipated in the amount that would otherwise be paid to
 33 one person, as specified in subdivision (a), if the mother, and child,
 34 if born, would have qualified for aid under this chapter. Verification
 35 of pregnancy shall be required as a condition of eligibility for aid
 36 under this subdivision. Aid shall also be paid to a pregnant woman
 37 with no other children in the amount which would otherwise be
 38 paid to one person under subdivision (a) at any time after
 39 verification of pregnancy if the pregnant woman is also eligible
 40 for the Cal-Learn Program described in Article 3.5 (commencing

1 with Section 11331) and if the mother, and child, if born, would
2 have qualified for aid under this chapter.

3 (c) The amount of forty-seven dollars (\$47) per month shall be
4 paid to pregnant mothers qualified for aid under subdivision (a)
5 or (b) to meet special needs resulting from pregnancy if the mother,
6 and child, if born, would have qualified for aid under this chapter.
7 County welfare departments shall refer all recipients of aid under
8 this subdivision to a local provider of the Women, Infants and
9 Children program. If that payment to pregnant mothers qualified
10 for aid under subdivision (a) is considered income under federal
11 law in the first five months of pregnancy, payments under this
12 subdivision shall not apply to persons eligible under subdivision
13 (a), except for the month in which birth is anticipated and for the
14 three-month period immediately prior to the month in which
15 delivery is anticipated, if the mother, and the child, if born, would
16 have qualified for aid under this chapter.

17 (d) For children receiving AFDC-FC under this chapter, there
18 shall be paid, exclusive of any amount considered exempt as
19 income, an amount of aid each month which, when added to the
20 child's income, is equal to the rate specified in Section 11460,
21 11461, 11462, 11462.1, or 11463. In addition, the child shall be
22 eligible for special needs, as specified in departmental regulations.

23 (e) In addition to the amounts payable under subdivision (a)
24 and Section 11453.1, a family shall be entitled to receive an
25 allowance for recurring special needs not common to a majority
26 of recipients. These recurring special needs shall include, but not
27 be limited to, special diets upon the recommendation of a physician
28 for circumstances other than pregnancy, and unusual costs of
29 transportation, laundry, housekeeping services, telephone, and
30 utilities. The recurring special needs allowance for each family
31 per month shall not exceed that amount resulting from multiplying
32 the sum of ten dollars (\$10) by the number of recipients in the
33 family who are eligible for assistance.

34 (f) After a family has used all available liquid resources, both
35 exempt and nonexempt, in excess of one hundred dollars (\$100),
36 with the exception of funds deposited in a restricted account
37 described in subdivision (a) of Section 11155.2, the family shall
38 also be entitled to receive an allowance for nonrecurring special
39 needs.

(1) An allowance for nonrecurring special needs shall be granted for replacement of clothing and household equipment and for emergency housing needs other than those needs addressed by paragraph (2). These needs shall be caused by sudden and unusual circumstances beyond the control of the needy family. The department shall establish the allowance for each of the nonrecurring special need items. The sum of all nonrecurring special needs provided by this subdivision shall not exceed six hundred dollars (\$600) per event.

(2) Homeless assistance is available to a homeless family seeking shelter when the family is eligible for aid under this chapter. Homeless assistance for temporary shelter is also available to homeless families which are apparently eligible for aid under this chapter. Apparent eligibility exists when evidence presented by the applicant, or which is otherwise available to the county welfare department, and the information provided on the application documents indicate that there would be eligibility for aid under this chapter if the evidence and information were verified. However, an alien applicant who does not provide verification of his or her eligible alien status, or a woman with no eligible children who does not provide medical verification of pregnancy, is not apparently eligible for purposes of this section.

A family is considered homeless, for the purpose of this section, when the family lacks a fixed and regular nighttime residence; or the family has a primary nighttime residence that is a supervised publicly or privately operated shelter designed to provide temporary living accommodations; or the family is residing in a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. A family is also considered homeless for the purpose of this section if the family has received a notice to pay rent or quit. The family shall demonstrate that the eviction is the result of a verified financial hardship as a result of extraordinary circumstances beyond their control, and not other lease or rental violations, and that the family is experiencing a financial crisis that could result in homelessness if preventative assistance is not provided.

(A) (i) A nonrecurring special need of sixty-five dollars (\$65) a day shall be available to families of up to four members for the costs of temporary shelter, subject to the requirements of this paragraph. The fifth and additional members of the family shall

1 each receive fifteen dollars (\$15) per day, up to a daily maximum
2 of one hundred twenty-five dollars (\$125). County welfare
3 departments may increase the daily amount available for temporary
4 shelter as necessary to secure the additional bedspace needed by
5 the family.

6 (ii) This special need shall be granted or denied immediately
7 upon the family's application for homeless assistance, and benefits
8 shall be available for up to three working days. The county welfare
9 department shall verify the family's homelessness within the first
10 three working days and if the family meets the criteria of
11 questionable homelessness established by the department, the
12 county welfare department shall refer the family to its early fraud
13 prevention and detection unit, if the county has such a unit, for
14 assistance in the verification of homelessness within this period.

15 (iii) After homelessness has been verified, the three-day limit
16 shall be extended for a period of time which, when added to the
17 initial benefits provided, does not exceed a total of 16 calendar
18 days. This extension of benefits shall be done in increments of one
19 week and shall be based upon searching for permanent housing
20 which shall be documented on a housing search form; good cause;
21 or other circumstances defined by the department. Documentation
22 of a housing search shall be required for the initial extension of
23 benefits beyond the three-day limit and on a weekly basis thereafter
24 as long as the family is receiving temporary shelter benefits. Good
25 cause shall include, but is not limited to, situations in which the
26 county welfare department has determined that the family, to the
27 extent it is capable, has made a good faith but unsuccessful effort
28 to secure permanent housing while receiving temporary shelter
29 benefits.

30 (B) A nonrecurring special need for permanent housing
31 assistance is available to pay for last month's rent and security
32 deposits when these payments are reasonable conditions of securing
33 a residence, or to pay for up to two months of rent arrearages, when
34 these payments are a reasonable condition of preventing eviction.

35 The last month's rent or monthly arrearage portion of the
36 payment (i) shall not exceed 80 percent of the family's total
37 monthly household income without the value of food stamps or
38 special needs for a family of that size and (ii) shall only be made
39 to families that have found permanent housing costing no more
40 than 80 percent of the family's total monthly household income

1 without the value of food stamps or special needs for a family of
2 that size.

3 However, if the county welfare department determines that a
4 family intends to reside with individuals who will be sharing
5 housing costs, the county welfare department shall, in appropriate
6 circumstances, set aside the condition specified in clause (ii) of
7 the preceding paragraph.

8 (C) The nonrecurring special need for permanent housing
9 assistance is also available to cover the standard costs of deposits
10 for utilities which are necessary for the health and safety of the
11 family.

12 (D) A payment for or denial of permanent housing assistance
13 shall be issued no later than one working day from the time that a
14 family presents evidence of the availability of permanent housing.
15 If an applicant family provides evidence of the availability of
16 permanent housing before the county welfare department has
17 established eligibility for aid under this chapter, the county welfare
18 department shall complete the eligibility determination so that the
19 denial of or payment for permanent housing assistance is issued
20 within one working day from the submission of evidence of the
21 availability of permanent housing, unless the family has failed to
22 provide all of the verification necessary to establish eligibility for
23 aid under this chapter.

24 (E) (i) Except as provided in clauses (ii) and (iii), eligibility
25 for the temporary shelter assistance and the permanent housing
26 assistance pursuant to this paragraph shall be limited to one period
27 of up to 16 consecutive calendar days of temporary assistance and
28 one payment of permanent assistance. Any family that includes a
29 parent or nonparent caretaker relative living in the home who has
30 previously received temporary or permanent homeless assistance
31 at any time on behalf of an eligible child shall not be eligible for
32 further homeless assistance. Any person who applies for homeless
33 assistance benefits shall be informed that the temporary shelter
34 benefit of up to 16 consecutive days is available only once in a
35 lifetime, with certain exceptions, and that a break in the consecutive
36 use of the benefit constitutes permanent exhaustion of the
37 temporary benefit.

38 (ii) A family that becomes homeless as a direct and primary
39 result of a state or federally declared natural disaster shall be
40 eligible for temporary and permanent homeless assistance.

1 (iii) A family shall be eligible for temporary and permanent
2 homeless assistance when homelessness is a direct result of
3 domestic violence by a spouse, partner, or roommate; physical or
4 mental illness that is medically verified that shall not include a
5 diagnosis of alcoholism, drug addiction, or psychological stress;
6 or, the uninhabitability of the former residence caused by sudden
7 and unusual circumstances beyond the control of the family
8 including natural catastrophe, fire, or condemnation. These
9 circumstances shall be verified by a third-party governmental or
10 private health and human services agency, except that domestic
11 violence may also be verified by a sworn statement by the victim,
12 as provided under Section 11495.25. Homeless assistance payments
13 based on these specific circumstances may not be received more
14 often than once in any 12-month period. In addition, if the domestic
15 violence is verified by a sworn statement by the victim, the
16 homeless assistance payments shall be limited to two periods of
17 not more than 16 consecutive calendar days of temporary assistance
18 and two payments of permanent assistance. A county may require
19 that a recipient of homeless assistance benefits who qualifies under
20 this paragraph for a second time in a 24-month period participate
21 in a homelessness avoidance case plan as a condition of eligibility
22 for homeless assistance benefits. The county welfare department
23 shall immediately inform recipients who verify domestic violence
24 by a sworn statement pursuant to clause (iii) of the availability of
25 domestic violence counseling and services, and refer those
26 recipients to services upon request.

27 (iv) If a county requires a recipient who verifies domestic
28 violence by a sworn statement to participate in a homelessness
29 avoidance case plan pursuant to clause (iii), the plan shall include
30 the provision of domestic violence services, if appropriate.

31 (v) If a recipient seeking homeless assistance based on domestic
32 violence pursuant to clause (iii) has previously received homeless
33 avoidance services based on domestic violence, the county shall
34 review whether services were offered to the recipient and consider
35 what additional services would assist the recipient in leaving the
36 domestic violence situation.

37 (vi) The county welfare department shall report to the
38 department through a statewide homeless assistance payment
39 indicator system, necessary data, as requested by the department,
40 regarding all recipients of aid under this paragraph.

1 (F) The county welfare departments, and all other entities
2 participating in the costs of the AFDC program, have the right in
3 their share to any refunds resulting from payment of the permanent
4 housing. However, if an emergency requires the family to move
5 within the 12-month period specified in subparagraph (E), the
6 family shall be allowed to use any refunds received from its
7 deposits to meet the costs of moving to another residence.

8 (G) Payments to providers for temporary shelter and permanent
9 housing and utilities shall be made on behalf of families requesting
10 these payments.

11 (H) The daily amount for the temporary shelter special need for
12 homeless assistance may be increased if authorized by the current
13 year's Budget Act by specifying a different daily allowance and
14 appropriating the funds therefor.

15 (I) No payment shall be made pursuant to this paragraph unless
16 the provider of housing is a commercial establishment, shelter, or
17 person in the business of renting properties who has a history of
18 renting properties.

19 (g) The department shall establish rules and regulations ensuring
20 the uniform application statewide of this subdivision.

21 (h) The department shall notify all applicants and recipients of
22 aid through the standardized application form that these benefits
23 are available and shall provide an opportunity for recipients to
24 apply for the funds quickly and efficiently.

25 (i) Except for the purposes of Section 15200, the amounts
26 payable to recipients pursuant to Section 11453.1 shall not
27 constitute part of the payment schedule set forth in subdivision
28 (a).

29 The amounts payable to recipients pursuant to Section 11453.1
30 shall not constitute income to recipients of aid under this section.

31 (j) For children receiving Kin-GAP pursuant to Article 4.5
32 (commencing with Section 11360) or Article 4.7 (commencing
33 with Section 11385) there shall be paid, exclusive of any amount
34 considered exempt as income, an amount of aid each month, which,
35 when added to the child's income, is equal to the rate specified in
36 Sections 11364 and 11387.

37 SEC. 51. Section 11450.16 of the Welfare and Institutions
38 Code is amended to read:

1 11450.16. (a) For purposes of determining eligibility under
2 this chapter, and for computing the amount of aid payment under
3 Section 11450, families shall be grouped into assistance units.

4 (b) Every assistance unit shall include at least one of the
5 following persons:

6 (1) One of each of the following:

7 (A) An eligible child.

8 (B) The caretaker relative of an otherwise eligible child who is
9 not receiving aid under Section 11250 because that child is
10 receiving benefits under Title XVI of the Social Security Act
11 (Subchapter 16 (commencing with Section 1381) of Chapter 7 of
12 Title 42 of the United States Code), or Kin-GAP payments under
13 Section 11364 or 11387, or foster care payments under Section
14 11461.

15 (2) A pregnant woman who is eligible for payments under
16 subdivision (c) of Section 11450.

17 (c) Every assistance unit shall, in addition to the requirements
18 of subdivision (b), include the eligible parents of the eligible child
19 and the eligible siblings, including half-siblings, of the eligible
20 child when those persons reside in the same home as the eligible
21 child. This subdivision shall not apply to any convicted offender
22 who is permitted to reside at the home of the eligible child as part
23 of a court-imposed sentence and who is considered an absent parent
24 under Section 11250.

25 (d) An assistance unit may, at the option of the family
26 comprising the assistance unit, also include the nonparent caretaker
27 relative of the eligible child, the spouse of the parent of the eligible
28 child, otherwise eligible nonsibling children in the care of the
29 caretaker relative of the eligible child, and the alternatively
30 sentenced offender parent exempted under subdivision (c).

31 (e) If two or more assistance units reside in the same home, they
32 shall be combined into one assistance unit when any of the
33 following circumstances occurs:

34 (1) There is a common caretaker relative for the eligible
35 children.

36 (2) One caretaker relative marries another caretaker relative.

37 (3) Two caretaker relatives are the parents of an eligible child.

38 (f) For purposes of this section, “caretaker relative” means the
39 parent or other relative, as defined by regulations adopted by the
40 department, who exercises responsibility and control of a child.

1 SEC. 52. Section 11454.5 of the Welfare and Institutions Code
2 is amended to read:

3 11454.5. (a) Any month in which the following conditions
4 exist shall not be counted as a month of receipt of aid for the
5 purposes of subdivision (a) of Section 11454:

6 (1) The recipient is exempt from participation under Article 3.2
7 (commencing with Section 11320) due to disability, or advanced
8 age in accordance with paragraph (3) of subdivision (b) of Section
9 11320.3, or due to caretaking responsibilities that impair the
10 recipient's ability to be regularly employed, in accordance with
11 paragraph (4) or (5) of subdivision (b) of Section 11320.3.

12 (2) The recipient is eligible for, participating in, or exempt from,
13 the Cal-Learn Program provided for pursuant to Article 3.5
14 (commencing with Section 11331), is participating in another teen
15 parent program approved by the department, or, on or after January
16 1, 2012, is a nonminor dependent under the supervision of the
17 county child welfare or probation department who is placed in an
18 approved relative's home and is eligible for aid under this section
19 because he or she satisfies the conditions described in Section
20 11403.

21 (3) The cost of the cash aid provided to the recipient for the
22 month is fully reimbursed by child support, whether collected in
23 that month or any subsequent month.

24 (4) The family is a former recipient of cash aid under this chapter
25 and currently receives only child care, case management, or
26 supportive services pursuant to Section 11323.2 or Article 15.5
27 (commencing with Section 8350) of Chapter 2 of Part 6 of the
28 Education Code.

29 (5) To the extent provided by federal law, the recipient lived in
30 Indian country, as defined by federal law, or an Alaskan native
31 village in which at least 50 percent of the adults living in the Indian
32 country or in the village are not employed.

33 (b) In cases where a lump-sum diversion payment is provided
34 in lieu of cash aid under Section 11266.5, the month in which the
35 payment is made or the months calculated pursuant to subdivision
36 (f) of Section 11266.5 shall count against the limits specified in
37 Section 11454.

38 SEC. 53. Section 11461 of the Welfare and Institutions Code
39 is amended to read:

11461. (a) For children or, on and after January 1, 2012, nonminor dependents placed in a licensed or approved family home with a capacity of six or less, or in an approved home of a relative or nonrelated legal guardian, or the approved home of a nonrelative extended family member as described in Section 362.7, or, on and after January 1, 2012, a supervised independent living setting, as defined in subdivision (w) of Section 11400, the per child per month rates in the following schedule shall be in effect for the period July 1, 1989, through December 31, 1989:

Age	Basic rate
0-4.....	\$ 294
5-8.....	319
9-11.....	340
12-14.....	378
15-20.....	412

(b) (1) Any county that, as of October 1, 1989, has in effect a basic rate that is at the levels set forth in the schedule in subdivision (a), shall continue to receive state participation, as specified in subdivision (c) of Section 15200, at these levels.

(2) Any county that, as of October 1, 1989, has in effect a basic rate that exceeds a level set forth in the schedule in subdivision (a), shall continue to receive the same level of state participation as it received on October 1, 1989.

(c) The amounts in the schedule of basic rates in subdivision (a) shall be adjusted as follows:

(1) Effective January 1, 1990, the amounts in the schedule of basic rates in subdivision (a) shall be increased by 12 percent.

(2) Effective May 1, 1990, any county that did not increase the basic rate by 12 percent on January 1, 1990, shall do both of the following:

(A) Increase the basic rate in effect December 31, 1989, for which state participation is received by 12 percent.

(B) Increase the basic rate, as adjusted pursuant to subparagraph (A), by an additional 5 percent.

(3) (A) Except as provided in subparagraph (B), effective July 1, 1990, for the 1990-91 fiscal year, the amounts in the schedule of basic rates in subdivision (a) shall be increased by an additional 5 percent.

1 (B) The rate increase required by subparagraph (A) shall not be
2 applied to rates increased May 1, 1990, pursuant to paragraph (2).

3 (4) Effective July 1, 1998, the amounts in the schedule of basic
4 rates in subdivision (a) shall be increased by 6 percent.
5 Notwithstanding any other provision of law, the 6-percent increase
6 provided for in this paragraph shall, retroactive to July 1, 1998,
7 apply to every county, including any county to which paragraph
8 (2) of subdivision (b) applies, and shall apply to foster care for
9 every age group.

10 (5) Notwithstanding any other provision of law, any increase
11 that takes effect after July 1, 1998, shall apply to every county,
12 including any county to which paragraph (2) of subdivision (b)
13 applies, and shall apply to foster care for every age group.

14 (6) The increase in the basic foster family home rate shall apply
15 only to children placed in a licensed foster family home receiving
16 the basic rate or in an approved home of a relative or nonrelative
17 extended family member, as described in Section 362.7, a
18 supervised independent living setting, as defined in subdivision
19 (w) of Section 11400, or a nonrelated legal guardian receiving the
20 basic rate. The increased rate shall not be used to compute the
21 monthly amount that may be paid to licensed foster family agencies
22 for the placement of children in certified foster homes.

23 (d) (1) (A) Beginning with the 1991–92 fiscal year, the
24 schedule of basic rates in subdivision (a) shall be adjusted by the
25 percentage changes in the California Necessities Index, computed
26 pursuant to the methodology described in Section 11453, subject
27 to the availability of funds.

28 (B) In addition to the adjustment in subparagraph (A) effective
29 January 1, 2000, the schedule of basic rates in subdivision (a) shall
30 be increased by 2.36 percent rounded to the nearest dollar.

31 (C) Effective January 1, 2008, the schedule of basic rates in
32 subdivision (a), as adjusted pursuant to subparagraph (B), shall be
33 increased by 5 percent, rounded to the nearest dollar. The increased
34 rate shall not be used to compute the monthly amount that may be
35 paid to licensed foster family agencies for the placement of children
36 in certified foster family homes, and shall not be used to recompute
37 the foster care maintenance payment that would have been paid
38 based on the age-related, state-approved foster family home care
39 rate and any applicable specialized care increment, for any adoption
40 assistance agreement entered into prior to October 1, 1992, or in

1 any subsequent reassessment for adoption assistance agreements
2 executed before January 1, 2008.

3 (2) (A) Any county that, as of the 1991–92 fiscal year, receives
4 state participation for a basic rate that exceeds the amount set forth
5 in the schedule of basic rates in subdivision (a) shall receive an
6 increase each year in state participation for that basic rate of
7 one-half of the percentage adjustments specified in paragraph (1)
8 until the difference between the county’s adjusted state
9 participation level for its basic rate and the adjusted schedule of
10 basic rates is eliminated.

11 (B) Notwithstanding subparagraph (A), all counties for the
12 1999–2000 fiscal year and the 2007–08 fiscal year shall receive
13 an increase in state participation for the basic rate of the entire
14 percentage adjustment described in paragraph (1).

15 (3) If a county has, after receiving the adjustments specified in
16 paragraph (2), a state participation level for a basic rate that is
17 below the amount set forth in the adjusted schedule of basic rates
18 for that fiscal year, the state participation level for that rate shall
19 be further increased to the amount specified in the adjusted
20 schedule of basic rates.

21 (e) (1) As used in this section, “specialized care increment”
22 means an approved amount paid with state participation on behalf
23 of an AFDC-FC child requiring specialized care to a home listed
24 in subdivision (a) in addition to the basic rate. On the effective
25 date of this section, the department shall continue and maintain
26 the current ratesetting system for specialized care.

27 (2) Any county that, as of the effective date of this section, has
28 in effect specialized care increments that have been approved by
29 the department, shall continue to receive state participation for
30 those payments.

31 (3) Any county that, as of the effective date of this section, has
32 in effect specialized care increments that exceed the amounts that
33 have been approved by the department, shall continue to receive
34 the same level of state participation as it received on the effective
35 date of this section.

36 (4) (A) Except for subparagraph (B), beginning January 1,
37 1990, specialized care increments shall be adjusted in accordance
38 with the methodology for the schedule of basic rates described in
39 subdivisions (c) and (d). No county shall receive state participation

1 for any increases in a specialized care increment which exceeds
2 the adjustments made in accordance with this methodology.

3 (B) Notwithstanding subdivision (e) of Section 11460, for the
4 1993–94 fiscal year, an amount equal to 5 percent of the State
5 Treasury appropriation for family homes shall be added to the total
6 augmentation for the AFDC-FC program in order to provide
7 incentives and assistance to counties in the area of specialized
8 care. This appropriation shall be used, but not limited to,
9 encouraging counties to implement or expand specialized care
10 payment systems, to recruit and train foster parents for the
11 placement of children with specialized care needs, and to develop
12 county systems to encourage the placement of children in family
13 homes. It is the intent of the Legislature that in the use of these
14 funds, federal financial participation shall be claimed whenever
15 possible.

16 (f) (1) As used in this section, “clothing allowance” means the
17 amount paid with state participation in addition to the basic rate
18 for the provision of additional clothing for an AFDC-FC child,
19 including, but not limited to, an initial supply of clothing and
20 school or other uniforms.

21 (2) Any county that, as of the effective date of this section, has
22 in effect clothing allowances, shall continue to receive the same
23 level as it received on the effective date of this section.

24 (3) (A) Commencing in the 2007–08 fiscal year, for children
25 whose foster care payment is the responsibility of Colusa, Plumas,
26 and Tehama Counties, the amount of the clothing allowance may
27 be up to two hundred seventy-four dollars (\$274) per child per
28 year.

29 (B) Each county listed in subparagraph (A) that elects to receive
30 the clothing allowance shall submit a Clothing Allowance Program
31 Notification to the department within 60 days after the effective
32 date of the act that adds this paragraph.

33 (C) The Clothing Allowance Program Notification shall identify
34 the specific amounts to be paid and the disbursement schedule for
35 these clothing allowance payments.

36 (4) Beginning January 1, 1990, except as provided in paragraph
37 (5), clothing allowances shall be adjusted annually in accordance
38 with the methodology for the schedule of basic rates described in
39 subdivisions (c) and (d). No county shall be reimbursed for any

1 increases in clothing allowances which exceed the adjustments
2 made in accordance with this methodology.

3 (5) For the 2000–01 fiscal year and each fiscal year thereafter,
4 without a county share of cost, notwithstanding subdivision (c) of
5 Section 15200, each child shall be entitled to receive a
6 supplemental clothing allowance of one hundred dollars (\$100)
7 per year subject to the availability of funds. The clothing allowance
8 shall be used to supplement, and not supplant, the clothing
9 allowance specified in paragraph (1).

10 SEC. 54. Section 11464 of the Welfare and Institutions Code
11 is amended to read:

12 11464. (a) The Legislature finds and declares all of the
13 following:

14 (1) Children who are consumers of regional center services and
15 also receiving Aid to Families with Dependent Children-Foster
16 Care (AFDC-FC), Kinship Guardianship Assistance Payment
17 (Kin-GAP) benefits, or Adoption Assistance Program (AAP)
18 benefits have special needs that can require care and supervision
19 beyond that typically provided to children in foster care. Clarifying
20 the roles of the child welfare and developmental disabilities
21 services systems will ensure that these children receive the services
22 and support they need in a timely manner and encourage the
23 successful adoption of these children, where appropriate.

24 (2) To address the extraordinary care and supervision needs of
25 children who are consumers of regional center services and also
26 receiving AFDC-FC, Kin-GAP, or AAP benefits, it is necessary
27 to provide a rate for care and supervision of these children that is
28 higher than the average rate they would otherwise receive through
29 the foster care system and higher than the rate other children with
30 medical and other significant special needs receive.

31 (3) Despite the enhanced rate provided in this section, some
32 children who are consumers of regional center services and also
33 receiving AFDC-FC, Kin-GAP, or AAP benefits may have care
34 and supervision needs that are so extraordinary that they cannot
35 be addressed within that rate. In these limited circumstances, a
36 process should be established whereby a supplement may be
37 provided in addition to the enhanced rate.

38 (4) Children who receive rates pursuant to this section shall be
39 afforded the same due process rights as all children who apply for
40 AFDC-FC, Kin-GAP, and AAP benefits pursuant to Section 10950.

(b) Rates for children who are both regional center consumers and recipients of AFDC-FC or Kin-GAP benefits under this chapter shall be determined as provided in Section 4684 and this section.

(c) (1) The rate to be paid for 24-hour out-of-home care and supervision provided to children who are both consumers of regional center services pursuant to subdivision (d) of Section 4512 and recipients of AFDC-FC and Kin-GAP benefits under this chapter shall be two thousand six dollars (\$2,006) per child per month.

(2) (A) The county, at its sole discretion, may authorize a supplement of up to one thousand dollars (\$1,000) to the rate for children three years of age and older, if it determines the child has the need for extraordinary care and supervision that cannot be met within the rate established pursuant to paragraph (1). The State Department of Social Services and the State Department of Developmental Services, in consultation with stakeholders representing county child welfare agencies, regional centers, and children who are both consumers of regional center services and recipients of AFDC-FC, Kin-GAP, or AAP benefits, shall develop objective criteria to be used by counties in determining eligibility for and the level of the supplements provided pursuant to this paragraph. The State Department of Social Services shall issue an all-county letter to implement these criteria within 120 days of the effective date of this act. The criteria shall take into account the extent to which the child has any of the following:

(i) Severe impairment in physical coordination and mobility.

(ii) Severe deficits in self-help skills.

(iii) Severely disruptive or self-injurious behavior.

(iv) A severe medical condition.

(B) The caregiver may request the supplement described in subparagraph (A) directly or upon referral by a regional center. Referral by a regional center shall not create the presumption of eligibility for the supplement.

(C) When assessing a request for the supplement, the county shall seek information from the consumer's regional center to assist in the assessment. The county shall issue a determination of eligibility for the supplement within 90 days of receipt of the request. The county shall report to the State Department of Social Services the number and level of rate supplements issued pursuant to this paragraph.

1 (d) (1) The rate to be paid for 24-hour out-of-home care and
2 supervision provided for children who are receiving services under
3 the California Early Start Intervention Services Act, are not yet
4 determined by their regional center to have a developmental
5 disability, as defined in subdivisions (a) and (l) of Section 4512,
6 and are receiving AFDC-FC or Kin-GAP benefits under this
7 chapter, shall be eight hundred ninety-eight dollars (\$898) per
8 child per month. If a regional center subsequently determines that
9 the child is an individual with a developmental disability as that
10 term is defined by subdivisions (a) and (l) of Section 4512, the
11 rate to be paid from the date of that determination shall be
12 consistent with subdivision (c).

13 (2) The rates to be paid for 24-hour out-of-home nonmedical
14 care and supervision for children who are recipients of AFDC-FC
15 or Kin-GAP and consumers of regional center services from a
16 community care facility licensed pursuant to Chapter 3
17 (commencing with Section 1500) of Division 2 of the Health and
18 Safety Code and vendored by a regional center pursuant to Section
19 56004 of Title 17 of the California Code of Regulations, shall be
20 the facility rate established by the State Department of
21 Developmental Services.

22 (e) Rates paid pursuant to this section are subject to all of the
23 following requirements:

24 (1) The rates paid to the foster care provider under subdivision
25 (c) and paragraph (1) of subdivision (d) are only for the care and
26 supervision of the child, as defined in subdivision (b) of Section
27 11460 and shall not be applicable to facilities described in
28 paragraph (2) of subdivision (d).

29 (2) Regional centers shall separately purchase or secure the
30 services that are contained in the child's Individualized Family
31 Service Plan (IFSP) or Individual Program Plan (IPP), pursuant
32 to Section 4684.

33 (3) In the event that the schedule of basic foster care rates, as
34 specified in Section 11461, is increased on or after July 1, 2008,
35 the rates in subdivisions (c), (d), and (f) shall be similarly adjusted.
36 No county shall be reimbursed for any increase in this rate that
37 exceeds the adjustments made in accordance with this
38 methodology.

39 (f) (1) The AFDC-FC rates paid on behalf of a regional center
40 consumer who is a recipient of AFDC-FC prior to July 1, 2007,

1 shall remain in effect unless a change in the placement warrants
2 redetermination of the rate or if the child is no longer AFDC-FC
3 eligible. However, AFDC-FC rates paid on behalf of these children
4 that are lower than the rates specified in paragraph (1) of
5 subdivision (c) or paragraph (1) of subdivision (d), respectively,
6 shall be increased as appropriate to the amount set forth in
7 paragraph (1) of subdivision (c) or paragraph (1) of subdivision
8 (d), effective July 1, 2007, and shall remain in effect unless a
9 change in the placement or a change in AFDC-FC eligibility of
10 the child warrants redetermination of the rate.

11 (2) For a child who is receiving AFDC-FC benefits or for whom
12 a foster care eligibility determination is pending, and for whom
13 an eligibility determination for regional center services pursuant
14 to subdivision (a) of Section 4512 is pending or approved, and for
15 whom, prior to July 1, 2007, a State Department of Developmental
16 Services facility rate determination request has been made and is
17 pending, the rate shall be the State Department of Developmental
18 Services facility rate determined by the regional center through an
19 individualized assessment, or the rate established in paragraph (1)
20 of subdivision (c), whichever is greater. The rate shall remain in
21 effect until the child is no longer eligible to receive AFDC-FC, or,
22 if still AFDC-FC eligible, is found ineligible for regional center
23 services as an individual described in subdivision (a) of Section
24 4512. Other than the circumstances described in this section,
25 regional centers shall not establish facility rates for AFDC-FC
26 purposes.

27 (g) (1) The department shall adopt emergency regulations in
28 accordance with Chapter 3.5 (commencing with Section 11340)
29 of Part 1 of Division 3 of Title 2 of the Government Code, and for
30 the purposes of that chapter, including Section 11349.6 of the
31 Government Code, on or before July 1, 2009.

32 (2) The adoption of regulations pursuant to paragraph (1) shall
33 be deemed an emergency and necessary for the immediate
34 preservation of the public peace, health, safety, and general welfare.
35 The regulations authorized by this subdivision shall remain in
36 effect for no more than 180 days, by which time final regulations
37 shall be adopted.

38 (h) (1) The State Department of Social Services and the State
39 Department of Developmental Services shall provide to the Joint
40 legislative Budget Committee, on a semiannual basis, the data set

1 forth in paragraph (2) to facilitate legislative review of the
2 outcomes of the changes made by the addition of this section and
3 the amendments made to Sections 4684 and 16121 by the act
4 adding this section. The first report shall be submitted on October
5 1, 2007, with subsequent reports submitted on March 1 and October
6 1 of each year.

7 (2) The following data shall be provided pursuant to this
8 subdivision:

9 (A) The number of, and services provided to, children who are
10 consumers of regional center services and who are receiving AAP,
11 Kin-GAP, or AFDC-FC, broken out by children receiving the
12 amount pursuant to paragraph (1) of subdivision (c), the amount
13 pursuant to paragraph (1) of subdivision (d), and the level of
14 supplement pursuant to subparagraph (A) of paragraph (2) of
15 subdivision (c).

16 (B) A comparison of services provided to these children and
17 similar children who are regional center consumers who do not
18 receive AFDC-FC, Kin-GAP, or AAP benefits, broken out by
19 children receiving the amount pursuant to paragraph (1) of
20 subdivision (c), the amount pursuant to paragraph (1) of subdivision
21 (d), and the level of supplement pursuant to subparagraph (A) of
22 paragraph (2) of subdivision (c).

23 (C) The number and nature of appeals filed regarding services
24 provided or secured by regional centers for these children,
25 consistent with Section 4714, broken out by children receiving the
26 amount pursuant to paragraph (1) of subdivision (c), the amount
27 pursuant to paragraph (1) of subdivision (d), and the level of
28 supplement pursuant to subparagraph (A) of paragraph (2) of
29 subdivision (c).

30 (D) The number of these children who are adopted before and
31 after the act adding this section, broken out by children receiving
32 the amount pursuant to paragraph (1) of subdivision (c), the amount
33 pursuant to paragraph (1) of subdivision (d), and the level of
34 supplement pursuant to subparagraph (A) of paragraph (2) of
35 subdivision (c).

36 (E) The number and levels of supplements requested pursuant
37 to subparagraph (B) of paragraph (2) of subdivision (c).

38 (F) The number of appeals requested of the decision by counties
39 to deny the request for the supplement pursuant to subparagraph
40 (A) of paragraph (2) of subdivision (c).

(G) The total number and levels of supplements authorized pursuant to subparagraph (A) of paragraph (2) of subdivision (c) and the number of these supplements authorized upon appeal.

(i) Commencing January 1, 2012, the rate described in subdivision (c) shall be paid for an eligible nonminor dependent who is under 21 years of age, is receiving AFDC-FC or Kin-GAP benefits pursuant to Section 11403, and is a consumer of regional center services.

SEC. 55. Section 11465 of the Welfare and Institutions Code is amended to read:

11465. (a) When a child is living with a parent who receives AFDC-FC or Kin-GAP benefits, the rate paid to the provider on behalf of the parent shall include an amount for care and supervision of the child.

(b) For each category of eligible licensed community care facility, as defined in Section 1502 of the Health and Safety Code, the department shall adopt regulations setting forth a uniform rate to cover the cost of care and supervision of the child in each category of eligible licensed community care facility.

(c) (1) On and after July 1, 1998, the uniform rate to cover the cost of care and supervision of a child pursuant to this section shall be increased by 6 percent, rounded to the nearest dollar. The resultant amounts shall constitute the new uniform rate.

(2) (A) On and after July 1, 1999, the uniform rate to cover the cost of care and supervision of a child pursuant to this section shall be adjusted by an amount equal to the California Necessities Index computed pursuant to Section 11453, rounded to the nearest dollar. The resultant amounts shall constitute the new uniform rate, subject to further adjustment pursuant to subparagraph (B).

(B) In addition to the adjustment specified in subparagraph (A), on and after January 1, 2000, the uniform rate to cover the cost of care and supervision of a child pursuant to this section shall be increased by 2.36 percent, rounded to the nearest dollar. The resultant amounts shall constitute the new uniform rate.

(3) Subject to the availability of funds, for the 2000–01 fiscal year and annually thereafter, these rates shall be adjusted for cost of living pursuant to procedures in Section 11453.

(4) On and after January 1, 2008, the uniform rate to cover the cost of care and supervision of a child pursuant to this section shall

1 be increased by 5 percent, rounded to the nearest dollar. The
2 resulting amount shall constitute the new uniform rate.

3 (d) (1) Notwithstanding subdivisions (a) to (c), inclusive, the
4 payment made pursuant to this section for care and supervision of
5 a child who is living with a teen parent in a whole family foster
6 home, as defined in Section 11400, shall equal the basic rate for
7 children placed in a licensed or approved home as specified in
8 subdivisions (a) to (d), inclusive, of Section 11461.

9 (2) The amount paid for care and supervision of a dependent
10 infant living with a dependent teen parent receiving AFDC-FC
11 benefits in a group home placement shall equal the infant
12 supplement rate for group home placements.

13 (3) The caregiver shall provide the county child welfare agency
14 or probation department with a copy of the shared responsibility
15 plan developed pursuant to Section 16501.25 and shall advise the
16 county child welfare agency or probation department of any
17 subsequent changes to the plan. Once the plan has been completed
18 and provided to the appropriate agencies, the payment made
19 pursuant to this section shall be increased by an additional two
20 hundred dollars (\$200) per month to reflect the increased care and
21 supervision while he or she is placed in the whole family foster
22 home.

23 (4) In any year in which the payment provided pursuant to this
24 section is adjusted for the cost of living as provided in paragraph
25 (1) of subdivision (c), the payments provided for in this subdivision
26 shall also be increased by the same procedures.

27 (5) A Kin-GAP relative who, immediately prior to entering the
28 Kin-GAP program, was designated as a whole family foster home
29 shall receive the same payment amounts for the care and
30 supervision of a child who is living with a teen parent they received
31 in foster care as a whole family foster home.

32 (6) On and after January 1, 2012, the rate paid for a child living
33 with a teen parent in a whole family foster home as defined in
34 Section 11400 shall also be paid for a child living with a nonminor
35 dependent parent who is eligible to receive AFDC-FC or Kin-GAP
36 pursuant to Section 11403.

37 SEC. 56. Section 11466.23 of the Welfare and Institutions
38 Code is amended to read:

39 11466.23. (a) It is the intent of the Legislature to comply with
40 the federal requirements of the Improper Payments Act of 2002

1 with respect to the remittance of the federal share of foster care
2 overpayments.

3 (b) For the purposes of this section, a federal foster care or
4 adoption assistance overpayment is defined as any amount of aid
5 paid to which a foster care provider or adoption assistance recipient
6 was not entitled, including any overpayment identified by a foster
7 care provider as described in Section 11400, or federal Adoption
8 Assistance Program recipient as described in Chapter 2.1
9 (commencing with Section 16115) of Part 4, and on and after the
10 date that the director executes a declaration pursuant to Section
11 11217, any federal Kin-GAP aid paid to which a related guardian
12 was not entitled, including any overpayment identified by a federal
13 Kin-GAP recipient as described in Article 4.7 (commencing with
14 Section 11385).

15 (c) Counties shall be required to remit the appropriate amount
16 of federal funds upon identification of the overpayment, following
17 the completion of due process.

18 (1) Counties shall not be required to repay the overpayment
19 when any of the following occurs:

20 (A) The amount is legally uncollectible, including any amount
21 legally uncollectible pursuant to Section 11466.24.

22 (B) The cost of collection exceeds the overpayment.

23 (C) The foster family agency or group home is no longer in
24 business or licensed by the department.

25 (2) Remittance of overpayments of federal AFDC-FC funds,
26 federal Kin-GAP, and federal AAP funds not excluded by
27 paragraph (1) shall be shared by the state and the counties based
28 on a 40-percent state, 60-percent county sharing ratio. Upon actual
29 collection of any overpayments from providers or recipients, the
30 county shall ensure that the total amount reimbursed to the state
31 reflects the federal and state share of the overpayment costs, as
32 specified. All overpayments of federal AFDC-FC funds, federal
33 Kin-GAP, and federal AAP funds included in paragraph (1) shall
34 be repaid completely with state funds.

35 (3) Nothing in this section shall inhibit existing county authority
36 to collect overpayments.

37 (4) Nothing in this section shall inhibit existing county
38 responsibility to remit voluntary overpayments upon collection.

39 (d) (1) The department shall adopt regulations to implement
40 this section by December 31, 2008. Notwithstanding Chapter 3.5

1 (commencing with Section 11340) of Part 1 of Division 3 of Title
2 2 of the Government Code, the department, in consultation and
3 coordination with the County Welfare Directors Association, may
4 adopt emergency regulations to implement this section.

5 (2) The adoption of emergency regulations pursuant to
6 subdivision (a) shall be deemed to be an emergency and necessary
7 for the immediate preservation of the public peace, health, safety,
8 or general welfare. The emergency regulations authorized by this
9 section shall be submitted to the Office of Administrative Law for
10 filing with the Secretary of State and shall remain in effect for no
11 more than 180 days, by which time final regulations shall be
12 adopted.

13 (e) The department may only require counties to remit payment
14 of the federal share for overpayments upon identification that occur
15 on or after the effective date of regulations adopted pursuant to
16 this section.

17 SEC. 57. Section 11466.24 of the Welfare and Institutions
18 Code is amended to read:

19 11466.24. (a) In accordance with this section, a county shall
20 collect an overpayment, discovered on or after January 1, 1999,
21 made to a foster family home, an approved home of a relative,
22 including, on and after the date that the director executes a
23 declaration pursuant to Section 11217, the home of a Kin-GAP
24 guardian, an approved home of a nonrelative extended family
25 member, or an approved home of a nonrelative legal guardian, or,
26 on and after January 1, 2012, the supervised independent living
27 setting where a nonminor dependent resides, for any period of time
28 in which the foster child was not cared for in that home, unless
29 any of the following conditions exist, in which case a county shall
30 not collect the overpayment:

31 (1) The cost of the collection exceeds that amount of the
32 overpayment that is likely to be recovered by the county. The cost
33 of collecting the overpayment and the likelihood of collection shall
34 be documented by the county. Costs that the county shall consider
35 when determining the cost-effectiveness to collect are total
36 administrative, personnel, legal filing fee, and investigative costs,
37 and any other applicable costs.

38 (2) The child was temporarily removed from the home and
39 payment was owed to the provider to maintain the child's
40 placement, or the child was temporarily absent from the provider's

1 home, or on runaway status and subsequently returned, and
2 payment was made to the provider to meet the child's needs.

3 (3) The overpayment was exclusively the result of a county
4 administrative error or both the county welfare department and
5 the provider or nonminor dependent were unaware of the
6 information that would establish that the foster child or nonminor
7 dependent was not eligible for foster care benefits.

8 (4) The provider or nonminor dependent did not have knowledge
9 of, and did not contribute to, the cause of the overpayment.

10 (b) (1) After notification by a county of an overpayment to a
11 foster family home, an approved home of a relative, including the
12 home of a Kin-GAP guardian, or a nonrelative extended family
13 member, approved home of a nonrelative legal guardian, or the
14 supervised independent living setting where the nonminor
15 dependent resides, and a demand letter for repayment, the foster
16 parent, approved relative, approved nonrelative legal guardian, or
17 nonminor dependent may request the county welfare department
18 to review the overpayment determination in an informal hearing,
19 or may file with the department a request for a hearing to appeal
20 the overpayment determination. Requesting an informal hearing
21 shall not preclude a payee from seeking a formal hearing at a later
22 date. The county welfare department shall dismiss the overpayment
23 repayment request if it determines the action to be incorrect through
24 an initial review prior to a state hearing, or through a review in an
25 informal hearing held at the request of the foster parent, relative,
26 nonrelative legal guardian, or nonminor dependent.

27 (2) If an informal hearing does not result in the dismissal of the
28 overpayment, or a formal appeal hearing is not requested, or on
29 the 30th day following a formal appeal hearing decision, whichever
30 is later, the foster family provider overpayment shall be sustained
31 for collection purposes.

32 (3) The department shall adopt regulations that ensure that the
33 best interests of the child or nonminor dependent shall be the
34 primary concern of the county welfare director in any repayment
35 agreement.

36 (c) (1) The department shall develop regulations for recovery
37 of overpayments made to any foster family home, approved home
38 of a relative, approved home of a nonrelative legal guardian, or
39 supervised independent living setting where a nonminor dependent
40 resides. The regulations shall prioritize collection methods, that

1 shall include voluntary repayment agreement procedures and
2 involuntary overpayment collection procedures. These procedures
3 shall take into account the amount of the overpayment and a
4 minimum required payment amount.

5 (2) A county shall not collect an overpayment through the use
6 of an involuntary payment agreement unless a foster family home,
7 an approved home of a relative, approved home of a nonrelative
8 legal guardian, or supervised independent living setting where a
9 nonminor dependent resides has rejected the offer of a voluntary
10 overpayment agreement, or has failed to comply with the terms of
11 the voluntary overpayment agreement.

12 (3) A county shall not be permitted to collect an overpayment
13 through the offset of payments due to a foster family home, an
14 approved home of a relative, approved home of a nonrelative legal
15 guardian or supervised independent living setting where a nonminor
16 dependent resides, unless this method of repayment is requested
17 by the provider or nonminor dependent in a voluntary repayment
18 agreement, or other circumstances defined by the department by
19 regulation.

20 (d) If a provider or nonminor dependent is successful in its
21 appeal of a collected overpayment, it shall be repaid the collected
22 overpayment plus simple interest based on the Surplus Money
23 Investment Fund.

24 (e) A county may not collect interest on the repayment of an
25 overpayment.

26 (f) There shall be a one-year statute of limitations from the date
27 upon which the county determined that there was an overpayment.

28 SEC. 58. Section 16120 of the Welfare and Institutions Code,
29 as amended by Section 19 of Chapter 287 of the Statutes of 2009,
30 is amended to read:

31 16120. A child shall be eligible for Adoption Assistance
32 Program benefits if all of the conditions specified in subdivisions
33 (a) to (l), inclusive, are met or if the conditions specified in
34 subdivision (m) are met.

35 (a) It has been determined that the child cannot or should not
36 be returned to the home of his or her parents as evidenced by a
37 petition for termination of parental rights, a court order terminating
38 parental rights, or a signed relinquishment, or, in the case of a
39 tribal customary adoption, if the court has given full faith and

1 credit to a tribal customary adoption order as provided for pursuant
2 to paragraph (2) of subdivision (e) of Section 366.26.

3 (b) The child has at least one of the following characteristics
4 that are barriers to his or her adoption:

5 (1) Adoptive placement without financial assistance is unlikely
6 because of membership in a sibling group that should remain intact
7 or by virtue of race, ethnicity, color, language, three years of age
8 or older, or parental background of a medical or behavioral nature
9 that can be determined to adversely affect the development of the
10 child.

11 (2) Adoptive placement without financial assistance is unlikely
12 because the child has a mental, physical, emotional, or medical
13 disability that has been certified by a licensed professional
14 competent to make an assessment and operating within the scope
15 of his or her profession. This paragraph shall also apply to children
16 with a developmental disability, as defined in subdivision (a) of
17 Section 4512, including those determined to require out-of-home
18 nonmedical care, as described in Section 11464.

19 (c) The need for adoption subsidy is evidenced by an
20 unsuccessful search for an adoptive home to take the child without
21 financial assistance, as documented in the case file of the
22 prospective adoptive child. The requirement for this search shall
23 be waived when it would be against the best interest of the child
24 because of the existence of significant emotional ties with
25 prospective adoptive parents while in the care of these persons as
26 a foster child.

27 (d) The child satisfies any of the following criteria:

28 (1) He or she is under 18 years of age.

29 (2) He or she is under 21 years of age and has a mental or
30 physical handicap that warrants the continuation of assistance.

31 (3) Effective January 1, 2012, he or she is under 19 years of
32 age, effective January 1, 2013, he or she is under 20 years of age,
33 and effective January 1, 2014, he or she is under 21 years of age
34 and attained 16 years of age before the adoption assistance
35 agreement became effective, and one or more of the following
36 applies:

37 (A) The youth is completing secondary education or a program
38 leading to an equivalent credential.

39 (B) The youth is enrolled in an institution that provides
40 postsecondary or vocational education.

1 (C) The youth is participating in a program or activity designed
2 to promote or remove barriers to employment.

3 (D) The youth is employed for at least 80 hours per month.

4 (E) The youth is incapable of doing any of the activities
5 described in subparagraphs (A) to (D), inclusive, due to a medical
6 condition, and that incapability is supported by regularly updated
7 information in the case plan of the child.

8 (e) The adoptive family is responsible for the child pursuant to
9 the terms of an adoptive placement agreement or a final decree of
10 adoption and has signed an adoption assistance agreement.

11 (f) The adoptive family is legally responsible for the support of
12 the child and the child is receiving support from the adoptive
13 parent.

14 (g) The department or the county responsible for determining
15 the child's Adoption Assistance Program eligibility status and for
16 providing financial aid, and the prospective adoptive parent, prior
17 to or at the time the adoption decree is issued by the court, have
18 signed an adoption assistance agreement that stipulates the need
19 for, and the amount of, Adoption Assistance Program benefits.

20 (h) The prospective adoptive parent or any adult living in the
21 prospective adoptive home has completed the criminal background
22 check requirements pursuant to Section 671(a)(20)(A) and (C) of
23 Title 42 of the United States Code.

24 (i) To be eligible for state funding, the child is the subject of an
25 agency adoption, as defined in Section 8506 of the Family Code
26 and was any of the following:

27 (1) Under the supervision of a county welfare department as
28 the subject of a legal guardianship or juvenile court dependency.

29 (2) Relinquished for adoption to a licensed California private
30 or public adoption agency, or another public agency operating a
31 Title IV-E program on behalf of the state, and would have
32 otherwise been at risk of dependency as certified by the responsible
33 public child welfare agency.

34 (3) Committed to the care of the department pursuant to Section
35 8805 or 8918 of the Family Code.

36 (4) The child is an Indian child and the subject of an order of
37 adoption based on tribal customary adoption of an Indian child,
38 as described in Section 366.24. Notwithstanding Section 8600.5
39 of the Family Code, for purposes of this subdivision a tribal
40 customary adoption shall be considered an agency adoption.

(j) To be eligible for federal funding, in the case of a child who is not an applicable child for the federal fiscal year as defined in subdivision (n), the child satisfies any of the following criteria:

(1) Prior to the finalization of an agency adoption, as defined in Section 8506 of the Family Code, or an independent adoption, as defined in Section 8524 of the Family Code, is filed, the child has met the requirements to receive federal supplemental security income benefits pursuant to Subchapter 16 (commencing with Section 1381) of Chapter 7 of Title 42 of the United States Code, as determined and documented by the federal Social Security Administration.

(2) The child was removed from the home of a specified relative and the child would have been AFDC-eligible in the home of removal according to Section 606(a) or 607 of Title 42 of the United States Code, as those sections were in effect on July 16, 1996, in the month of the voluntary placement agreement or in the month court proceedings are initiated to remove the child, resulting in a judicial determination that continuation in the home would be contrary to the child's welfare. The child must have been living with the specified relative from whom he or she was removed within six months of the month the voluntary placement agreement was signed or the petition to remove was filed.

(3) The child was voluntarily relinquished to a licensed public or private adoption agency, or another public agency operating a Title IV-E program on behalf of the state, and there is a petition to the court to remove the child from the home within six months of the time the child lived with a specified relative and a subsequent judicial determination that remaining in the home would be contrary to the child's welfare.

(4) Title IV-E foster care maintenance was paid on behalf of the child's minor parent and covered the cost of the minor parent's child while the child was in the foster family home or child care institution with the minor parent.

(5) The child is an Indian child and the subject of an order of adoption based on tribal customary adoption of an Indian child, as described in Section 366.24.

(k) To be eligible for federal funding, in the case of a child who is an applicable child for the federal fiscal year, as defined in subdivision (n), the child meets any of the following criteria:

1 (1) At the time of initiation of adoptive proceedings was in the
2 care of a public or licensed private child placement agency or
3 Indian tribal organization pursuant to either of the following:

4 (A) An involuntary removal of the child from the home in
5 accordance with a judicial determination to the effect that
6 continuation in the home would be contrary to the welfare of the
7 child.

8 (B) A voluntary placement agreement or a voluntary
9 relinquishment.

10 (2) He or she meets all medical or disability requirements of
11 Title XVI with respect to eligibility for supplemental security
12 income benefits.

13 (3) He or she was residing in a foster family home or a child
14 care institution with the child's minor parent, and the child's minor
15 parent was in the foster family home or child care institution
16 pursuant to either of the following:

17 (A) An involuntary removal of the child from the home in
18 accordance with a judicial determination to the effect that
19 continuation in the home would be contrary to the welfare of the
20 child.

21 (B) A voluntary placement agreement or voluntary
22 relinquishment.

23 (4) The child is an Indian child and the subject of an order of
24 adoption based on tribal customary adoption of an Indian child,
25 as described in Section 366.24.

26 (l) The child is a citizen of the United States or a qualified alien
27 as defined in Section 1641 of Title 8 of the United States Code. If
28 the child is a qualified alien who entered the United States on or
29 after August 22, 1996, and is placed with an unqualified alien, the
30 child must meet the five-year residency requirement pursuant to
31 Section 673(a)(2)(B) of Title 42 of the United States Code, unless
32 the child is a member of one of the excepted groups pursuant to
33 Section 1612(b) of Title 8 of the United States Code.

34 (m) A child shall be eligible for Adoption Assistance Program
35 benefits if the following conditions are met:

36 (1) The child received Adoption Assistance Program benefits
37 with respect to a prior adoption and the child is again available for
38 adoption because the prior adoption was dissolved and the parental
39 rights of the adoptive parents were terminated or because the

1 child's adoptive parents died and the child meets the special needs
2 criteria described in subdivisions (a) to (c), inclusive.

3 (2) To receive federal funding, the citizenship requirements in
4 subdivision (l).

5 (n) (1) Except as provided in this subdivision, "applicable child"
6 means a child for whom an adoption assistance agreement is
7 entered into under this section during any federal fiscal year
8 described in this subdivision if the child attained the applicable
9 age for that federal fiscal year before the end of that federal fiscal
10 year.

11 (A) For federal fiscal year 2010, the applicable age is 16 years.

12 (B) For federal fiscal year 2011, the applicable age is 14 years.

13 (C) For federal fiscal year 2012, the applicable age is 12 years.

14 (D) For federal fiscal year 2013, the applicable age is 10 years.

15 (E) For federal fiscal year 2014, the applicable age is eight years.

16 (F) For federal fiscal year 2015, the applicable age is six years.

17 (G) For federal fiscal year 2016, the applicable age is four years.

18 (H) For federal fiscal year 2017, the applicable age is two years.

19 (I) For federal fiscal year 2018 and thereafter, any age.

20 (2) Beginning with the 2010 federal fiscal year, the term
21 "applicable child" shall include a child of any age on the date on
22 which an adoption assistance agreement is entered into on behalf
23 of the child under this section if the child meets both of the
24 following criteria:

25 (A) He or she has been in foster care under the responsibility
26 of the state for at least 60 consecutive months.

27 (B) He or she meets the requirements of subdivision (k).

28 (3) Beginning with the 2010 federal fiscal year, an applicable
29 child shall include a child of any age on the date that an adoption
30 assistance agreement is entered into on behalf of the child under
31 this section, without regard to whether the child is described in
32 paragraph (2), if the child meets all of the following criteria:

33 (A) He or she is a sibling of a child who is an applicable child
34 for the federal fiscal year, under subdivision (n) or paragraph (2).

35 (B) He or she is to be placed in the same adoption placement
36 as an "applicable child" for the federal fiscal year who is their
37 sibling.

38 (C) He or she meets the requirements of subdivision (k).

1 (o) This section shall remain in effect only until January 1, 2014,
2 and as of that date is repealed, unless a later enacted statute, that
3 is enacted before January 1, 2014, deletes or extends that date.

4 SEC. 59. Section 16120 of the Welfare and Institutions Code,
5 as added by Section 20 of Chapter 287 of the Statutes of 2009, is
6 amended to read:

7 16120. A child shall be eligible for Adoption Assistance
8 Program benefits if all of the conditions specified in subdivisions
9 (a) to (l), inclusive, are met or if the conditions specified in
10 subdivision (m) are met.

11 (a) It has been determined that the child cannot or should not
12 be returned to the home of his or her parents as evidenced by a
13 petition for termination of parental rights, a court order terminating
14 parental rights, or a signed relinquishment.

15 (b) The child has at least one of the following characteristics
16 that are barriers to his or her adoption:

17 (1) Adoptive placement without financial assistance is unlikely
18 because of membership in a sibling group that should remain intact
19 or by virtue of race, ethnicity, color, language, three years of age
20 or older, or parental background of a medical or behavioral nature
21 that can be determined to adversely affect the development of the
22 child.

23 (2) Adoptive placement without financial assistance is unlikely
24 because the child has a mental, physical, emotional, or medical
25 disability that has been certified by a licensed professional
26 competent to make an assessment and operating within the scope
27 of his or her profession. This paragraph shall also apply to children
28 with a developmental disability, as defined in subdivision (a) of
29 Section 4512, including those determined to require out-of-home
30 nonmedical care, as described in Section 11464.

31 (c) The need for adoption subsidy is evidenced by an
32 unsuccessful search for an adoptive home to take the child without
33 financial assistance, as documented in the case file of the
34 prospective adoptive child. The requirement for this search shall
35 be waived when it would be against the best interest of the child
36 because of the existence of significant emotional ties with
37 prospective adoptive parents while in the care of these persons as
38 a foster child.

39 (d) The child satisfies any of the following criteria:

40 (1) He or she is under 18 years of age.

1 (2) He or she is under 21 years of age and has a mental or
2 physical handicap that warrants the continuation of assistance.

3 (3) Effective January 1, 2012, he or she is under 19 years of
4 age, effective January 1, 2013, he or she is under 20 years of age,
5 and effective January 1, 2014, he or she is under 21 years of age
6 and attained 16 years of age before the adoption assistance
7 agreement became effective, and one or more of the following
8 applies:

9 (A) The youth is completing secondary education or a program
10 leading to an equivalent credential.

11 (B) The youth is enrolled in an institution that provides
12 postsecondary or vocational education.

13 (C) The youth is participating in a program or activity designed
14 to promote or remove barriers to employment.

15 (D) The youth is employed for at least 80 hours per month.

16 (E) The youth is incapable of doing any of the activities
17 described in subparagraphs (A) to (D), inclusive, due to a medical
18 condition, and that incapability is supported by regularly updated
19 information in the case plan of the child.

20 (e) The adoptive family is responsible for the child pursuant to
21 the terms of an adoptive placement agreement or a final decree of
22 adoption and has signed an adoption assistance agreement.

23 (f) The adoptive family is legally responsible for the support of
24 the child and the child is receiving support from the adoptive
25 parent.

26 (g) The department or the county responsible for determining
27 the child's Adoption Assistance Program eligibility status and for
28 providing financial aid, and the prospective adoptive parent, prior
29 to or at the time the adoption decree is issued by the court, have
30 signed an adoption assistance agreement that stipulates the need
31 for, and the amount of, Adoption Assistance Program benefits.

32 (h) The prospective adoptive parent or any adult living in the
33 prospective adoptive home has completed the criminal background
34 check requirements pursuant to Section 671(a)(20)(A) and (C) of
35 Title 42 of the United States Code.

36 (i) To be eligible for state funding, the child is the subject of an
37 agency adoption, as defined in Section 8506 of the Family Code
38 and was any of the following:

39 (1) Under the supervision of a county welfare department as
40 the subject of a legal guardianship or juvenile court dependency.

1 (2) Relinquished for adoption to a licensed California private
2 or public adoption agency, or another public agency operating a
3 Title IV-E program on behalf of the state, and would have
4 otherwise been at risk of dependency as certified by the responsible
5 public child welfare agency.

6 (3) Committed to the care of the department pursuant to Section
7 8805 or 8918 of the Family Code.

8 (j) To be eligible for federal funding, in the case of a child who
9 is not an applicable child for the federal fiscal year as defined in
10 subdivision (n), the child satisfies any of the following criteria:

11 (1) Prior to the finalization of an agency adoption, as defined
12 in Section 8506 of the Family Code, or an independent adoption,
13 as defined in Section 8524 of the Family Code, is filed, the child
14 has met the requirements to receive federal supplemental security
15 income benefits pursuant to Subchapter 16 (commencing with
16 Section 1381) of Chapter 7 of Title 42 of the United States Code,
17 as determined and documented by the federal Social Security
18 Administration.

19 (2) The child was removed from the home of a specified relative
20 and the child would have been AFDC-eligible in the home of
21 removal according to Section 606(a) or 607 of Title 42 of the
22 United States Code, as those sections were in effect on July 16,
23 1996, in the month of the voluntary placement agreement or in the
24 month court proceedings are initiated to remove the child, resulting
25 in a judicial determination that continuation in the home would be
26 contrary to the child's welfare. The child must have been living
27 with the specified relative from whom he or she was removed
28 within six months of the month the voluntary placement agreement
29 was signed or the petition to remove was filed.

30 (3) The child was voluntarily relinquished to a licensed public
31 or private adoption agency, or another public agency operating a
32 Title IV-E program on behalf of the state, and there is a petition
33 to the court to remove the child from the home within six months
34 of the time the child lived with a specified relative and a subsequent
35 judicial determination that remaining in the home would be
36 contrary to the child's welfare.

37 (4) Title IV-E foster care maintenance was paid on behalf of
38 the child's minor parent and covered the cost of the minor parent's
39 child while the child was in the foster family home or child care
40 institution with the minor parent.

1 (k) To be eligible for federal funding, in the case of a child who
2 is an applicable child for the federal fiscal year, as defined in
3 subdivision (n), the child meets any of the following criteria:

4 (1) At the time of initiation of adoptive proceedings was in the
5 care of a public or licensed private child placement agency or
6 Indian tribal organization pursuant to either of the following:

7 (A) An involuntary removal of the child from the home in
8 accordance with a judicial determination to the effect that
9 continuation in the home would be contrary to the welfare of the
10 child.

11 (B) A voluntary placement agreement or a voluntary
12 relinquishment.

13 (2) He or she meets all medical or disability requirements of
14 Title XVI with respect to eligibility for supplemental security
15 income benefits.

16 (3) He or she was residing in a foster family home or a child
17 care institution with the child's minor parent, and the child's minor
18 parent was in the foster family home or child care institution
19 pursuant to either of the following:

20 (A) An involuntary removal of the child from the home in
21 accordance with a judicial determination to the effect that
22 continuation in the home would be contrary to the welfare of the
23 child.

24 (B) A voluntary placement agreement or voluntary
25 relinquishment.

26 (l) The child is a citizen of the United States or a qualified alien
27 as defined in Section 1641 of Title 8 of the United States Code. If
28 the child is a qualified alien who entered the United States on or
29 after August 22, 1996, and is placed with an unqualified alien, the
30 child must meet the five-year residency requirement pursuant to
31 Section 673(a)(2)(B) of Title 42 of the United States Code, unless
32 the child is a member of one of the excepted groups pursuant to
33 Section 1612(b) of Title 8 of the United States Code.

34 (m) A child shall be eligible for Adoption Assistance Program
35 benefits if the following conditions are met:

36 (1) The child received Adoption Assistance Program benefits
37 with respect to a prior adoption and the child is again available for
38 adoption because the prior adoption was dissolved and the parental
39 rights of the adoptive parents were terminated or because the

1 child's adoptive parents died and the child meets the special needs
2 criteria described in subdivisions (a) to (c), inclusive.

3 (2) To receive federal funding, the citizenship requirements in
4 subdivision (l).

5 (n) (1) Except as provided in this subdivision, "applicable child"
6 means a child for whom an adoption assistance agreement is
7 entered into under this section during any federal fiscal year
8 described in this subdivision if the child attained the applicable
9 age for that federal fiscal year before the end of that federal fiscal
10 year.

11 (A) For federal fiscal year 2010, the applicable age is 16 years.

12 (B) For federal fiscal year 2011, the applicable age is 14 years.

13 (C) For federal fiscal year 2012, the applicable age is 12 years.

14 (D) For federal fiscal year 2013, the applicable age is 10 years.

15 (E) For federal fiscal year 2014, the applicable age is eight years.

16 (F) For federal fiscal year 2015, the applicable age is six years.

17 (G) For federal fiscal year 2016, the applicable age is four years.

18 (H) For federal fiscal year 2017, the applicable age is two years.

19 (I) For federal fiscal year 2018 and thereafter, any age.

20 (2) Beginning with the 2010 federal fiscal year, the term
21 "applicable child" shall include a child of any age on the date on
22 which an adoption assistance agreement is entered into on behalf
23 of the child under this section if the child meets both of the
24 following criteria:

25 (A) He or she has been in foster care under the responsibility
26 of the state for at least 60 consecutive months.

27 (B) He or she meets the requirements of subdivision (k).

28 (3) Beginning with the 2010 federal fiscal year, an applicable
29 child shall include a child of any age on the date that an adoption
30 assistance agreement is entered into on behalf of the child under
31 this section, without regard to whether the child is described in
32 paragraph (2), if the child meets all of the following criteria:

33 (A) He or she is a sibling of a child who is an applicable child
34 for the federal fiscal year, under subdivision (n) or paragraph (2).

35 (B) He or she is to be placed in the same adoption placement
36 as an applicable child for the federal fiscal year who is his or her
37 sibling.

38 (C) He or she meets the requirements of subdivision (k).

39 (o) This section shall become operative on January 1, 2014.

1 SEC. 60. Section 16123 of the Welfare and Institutions Code
2 is amended to read:

3 16123. The provisions of Section 16120, permitting the
4 payment of adoption assistance until a child attains the age of 18
5 or 21 if the child has mental or physical handicaps, or effective
6 January 1, 2012, up to 21 years of age, if the child meets the criteria
7 specified in paragraph (3) of subdivision (d) of Section 16120,
8 shall be effective as long as federal funds are available under Title
9 IV-E of the federal Social Security Act (Part E (commencing with
10 Section 670) of Subchapter 4 of Chapter 7 of Title 42 of the United
11 States Code), and the state continues to exercise its option to extend
12 payments up to 21 years of age, pursuant to Section 473(a)(4) of
13 the federal Social Security Act (42 U.S.C. Sec. 673(a)(4)). When
14 those funds cease to be available, the maximum length for payment
15 of the Adoption Assistance Program shall be five years except in
16 instances in which there is a continuing need, related to a chronic
17 health condition of the child which necessitated the initial financial
18 assistance. In those cases, a parent may, until October 1, 1992,
19 petition the department or licensed adoption agency to continue
20 financial assistance up to age of majority. On and after October 1,
21 1992, the parent may petition the department or the responsible
22 county to continue financial assistance up to the age of majority.

23 SEC. 61. Section 16501 of the Welfare and Institutions Code
24 is amended to read:

25 16501. (a) As used in this chapter, "child welfare services"
26 means public social services which are directed toward the
27 accomplishment of any or all of the following purposes: protecting
28 and promoting the welfare of all children, including handicapped,
29 homeless, dependent, or neglected children; preventing or
30 remedying, or assisting in the solution of problems which may
31 result in, the neglect, abuse, exploitation, or delinquency of
32 children; preventing the unnecessary separation of children from
33 their families by identifying family problems, assisting families
34 in resolving their problems, and preventing breakup of the family
35 where the prevention of child removal is desirable and possible;
36 restoring to their families children who have been removed, by
37 the provision of services to the child and the families; identifying
38 children to be placed in suitable adoptive homes, in cases where
39 restoration to the biological family is not possible or appropriate;
40 and ensuring adequate care of children away from their homes, in

1 cases where the child cannot be returned home or cannot be placed
2 for adoption.

3 “Child welfare services” also means services provided on behalf
4 of children alleged to be the victims of child abuse, neglect, or
5 exploitation. The child welfare services provided on behalf of each
6 child represent a continuum of services, including emergency
7 response services, family preservation services, family maintenance
8 services, family reunification services, and permanent placement
9 services, including transitional independent living services. The
10 individual child’s case plan is the guiding principle in the provision
11 of these services. The case plan shall be developed within a
12 maximum of 60 days of the initial removal of the child or of the
13 in-person response required under subdivision (f) if the child has
14 not been removed from his or her home, or by the date of the
15 dispositional hearing pursuant to Section 358, whichever comes
16 first.

17 (1) Child welfare services may include, but are not limited to,
18 a range of service-funded activities, including case management,
19 counseling, emergency shelter care, emergency in-home caretakers,
20 temporary in-home caretakers, respite care, therapeutic day
21 services, teaching and demonstrating homemakers, parenting
22 training, substance abuse testing, and transportation. These
23 service-funded activities shall be available to children and their
24 families in all phases of the child welfare program in accordance
25 with the child’s case plan and departmental regulations. Funding
26 for services is limited to the amount appropriated in the annual
27 Budget Act and other available county funds.

28 (2) Service-funded activities to be provided may be determined
29 by each county, based upon individual child and family needs as
30 reflected in the service plan.

31 (3) As used in this chapter, “emergency shelter care” means
32 emergency shelter provided to children who have been removed
33 pursuant to Section 300 from their parent or parents or their
34 guardian or guardians. The department may establish, by
35 regulation, the time periods for which emergency shelter care shall
36 be funded. For the purposes of this paragraph, “emergency shelter
37 care” may include “transitional shelter care facilities” as defined
38 in paragraph (11) of subdivision (a) of Section 1502 of the Health
39 and Safety Code.

1 (b) As used in this chapter, “respite care” means temporary care
2 for periods not to exceed 72 hours. This care may be provided to
3 the child’s parents or guardians. This care shall not be limited by
4 regulation to care over 24 hours. These services shall not be
5 provided for the purpose of routine, ongoing child care.

6 (c) The county shall provide child welfare services as needed
7 pursuant to an approved service plan and in accordance with
8 regulations promulgated, in consultation with the counties, by the
9 department. Counties may contract for service-funded activities
10 as defined in paragraph (1) of subdivision (a). Each county shall
11 use available private child welfare resources prior to developing
12 new county-operated resources when the private child welfare
13 resources are of at least equal quality and lesser or equal cost as
14 compared with county-operated resources. Counties shall not
15 contract for needs assessment, client eligibility determination, or
16 any other activity as specified by regulations of the State
17 Department of Social Services, except as specifically authorized
18 in Section 16100.

19 (d) Nothing in this chapter shall be construed to affect duties
20 which are delegated to probation officers pursuant to Sections 601
21 and 654.

22 (e) Any county may utilize volunteer individuals to supplement
23 professional child welfare services by providing ancillary support
24 services in accordance with regulations adopted by the State
25 Department of Social Services.

26 (f) As used in this chapter, emergency response services consist
27 of a response system providing in-person response, 24 hours a day,
28 seven days a week, to reports of abuse, neglect, or exploitation, as
29 required by Article 2.5 (commencing with Section 11164) of
30 Chapter 2 of Title 1 of Part 4 of the Penal Code for the purpose of
31 investigation pursuant to Section 11166 of the Penal Code and to
32 determine the necessity for providing initial intake services and
33 crisis intervention to maintain the child safely in his or her own
34 home or to protect the safety of the child. County welfare
35 departments shall respond to any report of imminent danger to a
36 child immediately and all other reports within 10 calendar days.
37 An in-person response is not required when the county welfare
38 department, based upon an evaluation of risk, determines that an
39 in-person response is not appropriate. This evaluation includes

1 collateral, contacts, a review of previous referrals, and other
2 relevant information, as indicated.

3 (g) As used in this chapter, family maintenance services are
4 activities designed to provide in-home protective services to
5 prevent or remedy neglect, abuse, or exploitation, for the purposes
6 of preventing separation of children from their families.

7 (h) As used in this chapter, family reunification services are
8 activities designed to provide time-limited foster care services to
9 prevent or remedy neglect, abuse, or exploitation, when the child
10 cannot safely remain at home, and needs temporary foster care,
11 while services are provided to reunite the family.

12 (i) As used in this chapter, permanent placement services are
13 activities designed to provide an alternate permanent family
14 structure for children who because of abuse, neglect, or exploitation
15 cannot safely remain at home and who are unlikely to ever return
16 home. These services shall be provided on behalf of children for
17 whom there has been a judicial determination of a permanent plan
18 for adoption, legal guardianship, or long-term foster care, and, as
19 needed, shall include transitional independent living services.

20 (j) As used in this chapter, family preservation services include
21 those services specified in Section 16500.5 to avoid or limit
22 out-of-home placement of children, and may include those services
23 specified in that section to place children in the least restrictive
24 environment possible.

25 (k) (1) (A) In any county electing to implement this
26 subdivision, all county welfare department employees who have
27 frequent and routine contact with children shall, by February 1,
28 1997, and all welfare department employees who are expected to
29 have frequent and routine contact with children and who are hired
30 on or after January 1, 1996, and all such employees whose duties
31 change after January 1, 1996, to include frequent and routine
32 contact with children, shall, if the employees provide services to
33 children who are alleged victims of abuse, neglect, or exploitation,
34 sign a declaration under penalty of perjury regarding any prior
35 criminal conviction, and shall provide a set of fingerprints to the
36 county welfare director.

37 (B) The county welfare director shall secure from the
38 Department of Justice a criminal record to determine whether the
39 employee has ever been convicted of a crime other than a minor

1 traffic violation. The Department of Justice shall deliver the
2 criminal record to the county welfare director.

3 (C) If it is found that the employee has been convicted of a
4 crime, other than a minor traffic violation, the county welfare
5 director shall determine whether there is substantial and convincing
6 evidence to support a reasonable belief that the employee is of
7 good character so as to justify frequent and routine contact with
8 children.

9 (D) No exemption shall be granted pursuant to subparagraph
10 (C) if the person has been convicted of a sex offense against a
11 minor, or has been convicted of an offense specified in Section
12 220, 243.4, 264.1, 273d, 288, or 289 of the Penal Code, or in
13 paragraph (1) of Section 273a of, or subdivision (a) or (b) of
14 Section 368 of, the Penal Code, or has been convicted of an offense
15 specified in subdivision (c) of Section 667.5 of the Penal Code.
16 The county welfare director shall suspend such a person from any
17 duties involving frequent and routine contact with children.

18 (E) Notwithstanding subparagraph (D), the county welfare
19 director may grant an exemption if the employee or prospective
20 employee, who was convicted of a crime against an individual
21 specified in paragraph (1) or (7) of subdivision (c) of Section 667.5
22 of the Penal Code, has been rehabilitated as provided in Section
23 4852.03 of the Penal Code and has maintained the conduct required
24 in Section 4852.05 of the Penal Code for at least 10 years and has
25 the recommendation of the district attorney representing the
26 employee's or prospective employee's county of residence, or if
27 the employee or prospective employee has received a certificate
28 of rehabilitation pursuant to Chapter 3.5 (commencing with Section
29 4852.01) of Title 6 of Part 3 of the Penal Code. In that case, the
30 county welfare director may give the employee or prospective
31 employee an opportunity to explain the conviction and shall
32 consider that explanation in the evaluation of the criminal
33 conviction record.

34 (F) If no criminal record information has been recorded, the
35 county welfare director shall cause a statement of that fact to be
36 included in that person's personnel file.

37 (2) For purposes of this subdivision, a conviction means a plea
38 or verdict of guilty or a conviction following a plea of nolo
39 contendere. Any action which the county welfare director is
40 permitted to take following the establishment of a conviction may

1 be taken when the time for appeal has elapsed, or the judgment of
2 conviction has been affirmed on appeal or when an order granting
3 probation is made suspending the imposition of sentence,
4 notwithstanding a subsequent order pursuant to Sections 1203.4
5 and 1203.4a of the Penal Code permitting the person to withdraw
6 his or her plea of guilty and to enter a plea of not guilty, or setting
7 aside the verdict of guilty, or dismissing the accusation,
8 information, or indictment. For purposes of this subdivision, the
9 record of a conviction, or a copy thereof certified by the clerk of
10 the court or by a judge of the court in which the conviction
11 occurred, shall be conclusive evidence of the conviction.

12 SEC. 62. Section 16501.1 of the Welfare and Institutions Code
13 is amended to read:

14 16501.1. (a) (1) The Legislature finds and declares that the
15 foundation and central unifying tool in child welfare services is
16 the case plan.

17 (2) The Legislature further finds and declares that a case plan
18 ensures that the child receives protection and safe and proper care
19 and case management, and that services are provided to the child
20 and parents or other caretakers, as appropriate, in order to improve
21 conditions in the parent's home, to facilitate the safe return of the
22 child to a safe home or the permanent placement of the child, and
23 to address the needs of the child while in foster care.

24 (b) (1) A case plan shall be based upon the principles of this
25 section and shall document that a preplacement assessment of the
26 service needs of the child and family, and preplacement preventive
27 services, have been provided, and that reasonable efforts to prevent
28 out-of-home placement have been made.

29 (2) In determining the reasonable services to be offered or
30 provided, the child's health and safety shall be the paramount
31 concerns.

32 (3) (A) In determining the reasonable services to be offered or
33 provided, the case plan shall include information, to the extent
34 possible, about a parent's incarceration in a county jail or the state
35 prison during the time that a minor child of that parent is involved
36 in dependency care. Once a consistent data entry field or fields
37 have been designated in the statewide child welfare database, social
38 workers shall make reasonable efforts to collect and update
39 necessary data regarding a child's incarcerated parent or parents.

1 (B) In order to further the goals of this paragraph, the Legislature
2 encourages the State Department of Social Services to consult with
3 the county welfare directors regarding the best way to incorporate
4 the information specified in subparagraph (A) as a required field
5 in the statewide database. The Legislature also encourages the
6 Department of Justice, the Department of Corrections and
7 Rehabilitation, county welfare departments, and county sheriffs
8 to develop protocols for facilitating the exchange of information
9 regarding the location and sentencing of the incarcerated parent
10 or parents of a minor child who is in dependency care.

11 (C) Nothing in this paragraph shall be interpreted to require the
12 department to create a new dedicated field in the statewide database
13 for incorporating the information specified in subparagraph (A).

14 (4) Reasonable services shall be offered or provided to make it
15 possible for a child to return to a safe home environment, unless,
16 pursuant to subdivisions (b) and (e) of Section 361.5, the court
17 determines that reunification services shall not be provided.

18 (5) If reasonable services are not ordered, or are terminated,
19 reasonable efforts shall be made to place the child in a timely
20 manner in accordance with the permanent plan and to complete
21 all steps necessary to finalize the permanent placement of the child.

22 (c) (1) If out-of-home placement is used to attain case plan
23 goals, the decision regarding choice of placement shall be based
24 upon selection of a safe setting that is the least restrictive or most
25 familylike and the most appropriate setting that is available and
26 in close proximity to the parent's home, proximity to the child's
27 school, consistent with the selection of the environment best suited
28 to meet the child's special needs and best interests, or both. The
29 selection shall consider, in order of priority, placement with
30 relatives, tribal members, and foster family, group care, and
31 residential treatment pursuant to Section 7950 of the Family Code.
32 On or after January 1, 2012, for a nonminor dependent, as defined
33 in subdivision (v) of Section 11400, who is receiving AFDC-FC
34 benefits up to 21 years of age pursuant to Section 11403, in
35 addition to the above requirements, the selection of the placement,
36 including a supervised independent living setting, as described in
37 Section 11400, shall also be based upon the developmental needs
38 of young adults by providing opportunities to have incremental
39 responsibilities that prepare a nonminor dependent to transition to
40 independent living. When a nonminor dependent is placed in a

1 group home, the case plan shall also specify why that placement
2 is necessary for the nonminor dependent's transition to independent
3 living.

4 (2) In addition to the requirements of paragraph (1), and taking
5 into account other statutory considerations regarding placement,
6 the selection of the most appropriate home that will meet the child's
7 special needs and best interests shall also promote educational
8 stability by taking into consideration proximity to the child's school
9 attendance area.

10 (d) A written case plan shall be completed within a maximum
11 of 60 days of the initial removal of the child or of the in-person
12 response required under subdivision (f) of Section 16501 if the
13 child has not been removed from his or her home, or by the date
14 of the dispositional hearing pursuant to Section 358, whichever
15 occurs first. The case plan shall be updated, as the service needs
16 of the child and family dictate. At a minimum, the case plan shall
17 be updated in conjunction with each status review hearing
18 conducted pursuant to Section 366.21, and the hearing conducted
19 pursuant to Section 366.26, but no less frequently than once every
20 six months. Each updated case plan shall include a description of
21 the services that have been provided to the child under the plan
22 and an evaluation of the appropriateness and effectiveness of those
23 services.

24 (1) It is the intent of the Legislature that extending the maximum
25 time available for preparing a written case plan from 30 to 60 days
26 will afford caseworkers time to actively engage families, and to
27 solicit and integrate into the case plan the input of the child and
28 the child's family, as well as the input of relatives and other
29 interested parties.

30 (2) The extension of the maximum time available for preparing
31 a written case plan from the 30 to 60 days shall be effective 90
32 days after the date that the department gives counties written notice
33 that necessary changes have been made to the Child Welfare
34 Services Case Management System to account for the 60-day
35 timeframe for preparing a written case plan.

36 (e) The child welfare services case plan shall be comprehensive
37 enough to meet the juvenile court dependency proceedings
38 requirements pursuant to Article 6 (commencing with Section 300)
39 of Chapter 2 of Part 1 of Division 2.

40 (f) The case plan shall be developed as follows:

1 (1) The case plan shall be based upon an assessment of the
2 circumstances that required child welfare services intervention.
3 The child shall be involved in developing the case plan as age and
4 developmentally appropriate.

5 (2) The case plan shall identify specific goals and the
6 appropriateness of the planned services in meeting those goals.

7 (3) The case plan shall identify the original allegations of abuse
8 or neglect, as defined in Article 2.5 (commencing with Section
9 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code, or the
10 conditions cited as the basis for declaring the child a dependent of
11 the court pursuant to Section 300, or all of these, and the other
12 precipitating incidents that led to child welfare services
13 intervention.

14 (4) The case plan shall include a description of the schedule of
15 the social worker contacts with the child and the family or other
16 caretakers. The frequency of these contacts shall be in accordance
17 with regulations adopted by the State Department of Social
18 Services. If the child has been placed in foster care out of state,
19 the county social worker or a social worker on the staff of the
20 social services agency in the state in which the child has been
21 placed shall visit the child in a foster family home or the home of
22 a relative, consistent with federal law and in accordance with the
23 department's approved state plan. For children in out-of-state group
24 home facilities, visits shall be conducted at least monthly, pursuant
25 to Section 16516.5. At least once every six months, at the time of
26 a regularly scheduled social worker contact with the foster child,
27 the child's social worker shall inform the child of his or her rights
28 as a foster child, as specified in Section 16001.9. The social worker
29 shall provide the information to the child in a manner appropriate
30 to the age or developmental level of the child.

31 (5) (A) When out-of-home services are used, the frequency of
32 contact between the natural parents or legal guardians and the child
33 shall be specified in the case plan. The frequency of those contacts
34 shall reflect overall case goals, and consider other principles
35 outlined in this section.

36 (B) Information regarding any court-ordered visitation between
37 the child and the natural parents or legal guardians, and the terms
38 and conditions needed to facilitate the visits while protecting the
39 safety of the child, shall be provided to the child's out-of-home
40 caregiver as soon as possible after the court order is made.

1 (6) When out-of-home placement is made, the case plan shall
2 include provisions for the development and maintenance of sibling
3 relationships as specified in subdivisions (b), (c), and (d) of Section
4 16002. If appropriate, when siblings who are dependents of the
5 juvenile court are not placed together, the social worker for each
6 child, if different, shall communicate with each of the other social
7 workers and ensure that the child's siblings are informed of
8 significant life events that occur within their extended family.
9 Unless it has been determined that it is inappropriate in a particular
10 case to keep siblings informed of significant life events that occur
11 within the extended family, the social worker shall determine the
12 appropriate means and setting for disclosure of this information
13 to the child commensurate with the child's age and emotional
14 well-being. These significant life events shall include, but shall
15 not be limited to, the following:

16 (A) The death of an immediate relative.

17 (B) The birth of a sibling.

18 (C) Significant changes regarding a dependent child, unless the
19 child objects to the sharing of the information with his or her
20 siblings, including changes in placement, major medical or mental
21 health diagnoses, treatments, or hospitalizations, arrests, and
22 changes in the permanent plan.

23 (7) If out-of-home placement is made in a foster family home,
24 group home, or other child care institution that is either a
25 substantial distance from the home of the child's parent or out of
26 state, the case plan shall specify the reasons why that placement
27 is in the best interest of the child. When an out-of-state group home
28 placement is recommended or made, the case plan shall, in
29 addition, specify compliance with Section 7911.1 of the Family
30 Code.

31 (8) Effective January 1, 2010, a case plan shall ensure the
32 educational stability of the child while in foster care and shall
33 include both of the following:

34 (A) An assurance that the placement takes into account the
35 appropriateness of the current educational setting and the proximity
36 to the school in which the child is enrolled at the time of placement.

37 (B) An assurance that the placement agency has coordinated
38 with appropriate local educational agencies to ensure that the child
39 remains in the school in which the child is enrolled at the time of
40 placement, or, if remaining in that school is not in the best interests

1 of the child, assurances by the placement agency and the local
2 educational agency to provide immediate and appropriate
3 enrollment in a new school and to provide all of the child's
4 educational records to the new school.

5 (9) (A) If out-of-home services are used, or if parental rights
6 have been terminated and the case plan is placement for adoption,
7 the case plan shall include a recommendation regarding the
8 appropriateness of unsupervised visitation between the child and
9 any of the child's siblings. This recommendation shall include a
10 statement regarding the child's and the siblings' willingness to
11 participate in unsupervised visitation. If the case plan includes a
12 recommendation for unsupervised sibling visitation, the plan shall
13 also note that information necessary to accomplish this visitation
14 has been provided to the child or to the child's siblings.

15 (B) Information regarding the schedule and frequency of the
16 visits between the child and siblings, as well as any court-ordered
17 terms and conditions needed to facilitate the visits while protecting
18 the safety of the child, shall be provided to the child's out-of-home
19 caregiver as soon as possible after the court order is made.

20 (10) If out-of-home services are used and the goal is
21 reunification, the case plan shall describe the services to be
22 provided to assist in reunification and the services to be provided
23 concurrently to achieve legal permanency if efforts to reunify fail.
24 The plan shall also consider in-state and out-of-state placements,
25 the importance of developing and maintaining sibling relationships
26 pursuant to Section 16002, and the desire and willingness of the
27 caregiver to provide legal permanency for the child if reunification
28 is unsuccessful.

29 (11) If out-of-home services are used, the child has been in care
30 for at least 12 months, and the goal is not adoptive placement, the
31 case plan shall include documentation of the compelling reason
32 or reasons why termination of parental rights is not in the child's
33 best interest. A determination completed or updated within the
34 past 12 months by the department when it is acting as an adoption
35 agency or by a licensed adoption agency that it is unlikely that the
36 child will be adopted, or that one of the conditions described in
37 paragraph (1) of subdivision (c) of Section 366.26 applies, shall
38 be deemed a compelling reason.

39 (12) (A) Parents and legal guardians shall have an opportunity
40 to review the case plan, and to sign it whenever possible, and then

1 shall receive a copy of the plan. In any voluntary service or
2 placement agreement, the parents or legal guardians shall be
3 required to review and sign the case plan. Whenever possible,
4 parents and legal guardians shall participate in the development
5 of the case plan. Commencing January 1, 2012, for nonminor
6 dependents, as defined in subdivision (v) of Section 11400, who
7 are receiving AFDC-FC up to 21 years of age pursuant to Section
8 11403, the case plan shall be developed with, and signed by, the
9 nonminor.

10 (B) Parents and legal guardians shall be advised that, pursuant
11 to Section 1228.1 of the Evidence Code, neither their signature on
12 the child welfare services case plan nor their acceptance of any
13 services prescribed in the child welfare services case plan shall
14 constitute an admission of guilt or be used as evidence against the
15 parent or legal guardian in a court of law. However, they shall also
16 be advised that the parent's or guardian's failure to cooperate,
17 except for good cause, in the provision of services specified in the
18 child welfare services case plan may be used in any hearing held
19 pursuant to Section 366.21 or 366.22 as evidence.

20 (13) A child shall be given a meaningful opportunity to
21 participate in the development of the case plan and state his or her
22 preference for foster care placement. A child who is 12 years of
23 age or older and in a permanent placement shall also be given the
24 opportunity to review the case plan, sign the case plan, and receive
25 a copy of the case plan.

26 (14) The case plan shall be included in the court report and shall
27 be considered by the court at the initial hearing and each review
28 hearing. Modifications to the case plan made during the period
29 between review hearings need not be approved by the court if the
30 casework supervisor for that case determines that the modifications
31 further the goals of the plan. If out-of-home services are used with
32 the goal of family reunification, the case plan shall consider and
33 describe the application of subdivision (b) of Section 11203.

34 (15) If the case plan has as its goal for the child a permanent
35 plan of adoption or placement in another permanent home, it shall
36 include a statement of the child's wishes regarding their permanent
37 placement plan and an assessment of those stated wishes. The
38 agency shall also include documentation of the steps the agency
39 is taking to find an adoptive family or other permanent living
40 arrangements for the child; to place the child with an adoptive

1 family, an appropriate and willing relative, a legal guardian, or in
2 another planned permanent living arrangement; and to finalize the
3 adoption or legal guardianship. At a minimum, the documentation
4 shall include child-specific recruitment efforts, such as the use of
5 state, regional, and national adoption exchanges, including
6 electronic exchange systems, when the child has been freed for
7 adoption.

8 (16) (A) When appropriate, for a child who is 16 years of age
9 or older and, commencing January 1, 2012, for a nonminor
10 dependent, the case plan shall include a written description of the
11 programs and services that will help the child, consistent with the
12 child's best interests, prepare for the transition from foster care to
13 independent living, and whether the youth has an in-progress
14 application pending for Title XVI Supplemental Security Income
15 benefits or for Special Juvenile Immigration Status or other
16 applicable application for legal residency and an active dependency
17 case is required for that application. When appropriate, for a
18 nonminor dependent, the case plan shall include a written
19 description of the program and services that will help the nonminor
20 dependent, consistent with his or her best interests, to prepare for
21 transition from foster care and assist the youth in meeting the
22 eligibility criteria set forth in Section 11403. If applicable, the case
23 plan shall describe the individualized supervision provided in the
24 supervised independent living setting as defined, in subdivision
25 (w) of Section 11400. The case plan shall be developed with the
26 child or nonminor dependent and individuals identified as important
27 to the child or nonminor dependent, and shall include steps the
28 agency is taking to ensure that the child or nonminor dependent
29 achieves permanence, including maintaining or obtaining
30 permanent connections to caring and committed adults.

31 (B) During the 90-day period prior to the participant attaining
32 18 years of age or older as the state may elect under Section
33 475(8)(B)(iii) (42 U.S.C. Sec. 675(8)(B)(iii)) of the federal Social
34 Security Act, whether during that period foster care maintenance
35 payments are being made on the child's behalf or the child is
36 receiving benefits or services under Section 477 (42 U.S.C. Sec.
37 677) of the federal Social Security Act, a caseworker or other
38 appropriate agency staff or probation officer and other
39 representatives of the participant, as appropriate, shall provide the
40 youth or nonminor with assistance and support in developing the

1 written transitional independent living plan, that is personalized
2 at the direction of the child, information as detailed as the
3 participant elects that shall include, but not be limited to, options
4 regarding housing, health insurance, education, local opportunities
5 for mentors and continuing support services, and workforce
6 supports and employment services.

7 (g) If the court finds, after considering the case plan, that
8 unsupervised sibling visitation is appropriate and has been
9 consented to, the court shall order that the child or the child's
10 siblings, the child's current caregiver, and the child's prospective
11 adoptive parents, if applicable, be provided with information
12 necessary to accomplish this visitation. This section does not
13 require or prohibit the social worker's facilitation, transportation,
14 or supervision of visits between the child and his or her siblings.

15 (h) The case plan documentation on sibling placements required
16 under this section shall not require modification of existing case
17 plan forms until the Child Welfare Services Case Management
18 System is implemented on a statewide basis.

19 (i) When a child who is 10 years of age or older and who has
20 been in out-of-home placement for six months or longer, the case
21 plan shall include an identification of individuals, other than the
22 child's siblings, who are important to the child and actions
23 necessary to maintain the child's relationship with those
24 individuals, provided that those relationships are in the best interest
25 of the child. The social worker shall ask every child who is 10
26 years of age or older and who has been in out-of-home placement
27 for six months or longer to identify individuals other than the
28 child's siblings who are important to the child, and may ask any
29 other child to provide that information, as appropriate. The social
30 worker shall make efforts to identify other individuals who are
31 important to the child, consistent with the child's best interests.

32 (j) The child's caregiver shall be provided a copy of a plan
33 outlining the child's needs and services.

34 (k) On or before June 30, 2008, the department, in consultation
35 with the County Welfare Directors Association and other
36 advocates, shall develop a comprehensive plan to ensure that 90
37 percent of foster children are visited by their caseworkers on a
38 monthly basis by October 1, 2011, and that the majority of the
39 visits occur in the residence of the child. The plan shall include
40 any data reporting requirements necessary to comply with the

1 provisions of the federal Child and Family Services Improvement
2 Act of 2006 (Public Law 109-288).

3 (l) The implementation and operation of the amendments to
4 subdivision (i) enacted at the 2005–06 Regular Session shall be
5 subject to appropriation through the budget process and by phase,
6 as provided in Section 366.35.

7 SEC. 63. Section 16501.25 of the Welfare and Institutions
8 Code is amended to read:

9 16501.25. (a) For the purposes of this section, “teen parent”
10 means a child who has been adjudged to be a dependent child or
11 ward of the court on the grounds that he or she is a person described
12 under Section 300 or 602, or a ward of a nonrelated legal guardian
13 whose guardianship was established pursuant to Section 360 or
14 366.26, living in out-of-home placement in a whole family foster
15 home, as defined in subdivision (u) of Section 11400, who is a
16 parent. Commencing January 1, 2012, “teen parent” also means a
17 nonminor dependent, as defined in subdivision (v) of Section
18 11400, who is living in a whole family foster home, as defined in
19 subdivision (t) of Section 11400, and is eligible for AFDC-FC or
20 Kin-GAP payments pursuant to Section 11403.

21 (b) (1) When the child of a teen parent is not subject to the
22 jurisdiction of the dependency court but is in the full or partial
23 physical custody of the teen parent, a written shared responsibility
24 plan shall be developed. The plan shall be developed between the
25 teen parent, caregiver, and a representative of the county child
26 welfare agency or probation department, and in the case of a
27 certified home, a representative of the agency providing direct and
28 immediate supervision to the caregiver. Additional input may be
29 provided by any individuals identified by the teen parent, the other
30 parent of the child, if appropriate, and other extended family
31 members. The plan shall be developed as soon as is practicably
32 possible. However, if one or more of the above stakeholders are
33 not available to participate in the creation of the plan within the
34 first 30 days of the teen parent’s placement, the teen parent and
35 caregiver may enter into a plan for the purposes of fulfilling the
36 requirements of paragraph (2) of subdivision (d) of Section 11465,
37 which may be modified at a later time when the other individuals
38 become available.

39 (2) The plan shall be designed to preserve and strengthen the
40 teen parent family unit, as described in Section 16002.5, to assist

1 the teen parent in meeting the goals outlined in Section 16002.5,
2 to facilitate a supportive home environment for the teen parent and
3 the child, and to ultimately enable the teen parent to independently
4 provide a safe, stable, and permanent home for the child. The plan
5 shall in no way limit the teen parent's legal right to make decisions
6 regarding the care, custody, and control of the child.

7 (3) The plan shall be written for the express purpose of aiding
8 the teen parent and the caregiver to reach agreements aimed at
9 reducing conflict and misunderstandings. The plan shall outline,
10 with as much specificity as is practicable, the duties, rights, and
11 responsibilities of both the teen parent and the caregiver with regard
12 to the child, and identify supportive services to be offered to the
13 teen parent by the caregiver or, in the case of a certified home, the
14 agency providing direct and immediate supervision to the caregiver,
15 or both. The plan shall be updated, as needed, to account for the
16 changing needs of infants and toddlers, and in accordance with
17 the teen parent's changing school, employment, or other outside
18 responsibilities. The plan shall not conflict with the teen parent's
19 case plan. Areas to be addressed by the plan include, but are not
20 limited to, all of the following:

21 (A) Feeding.

22 (B) Clothing.

23 (C) Hygiene.

24 (D) Purchase of necessary items, including, but not limited to,
25 safety items, food, clothing, and developmentally appropriate toys
26 and books. This includes both one-time purchases and items needed
27 on an ongoing basis.

28 (E) Health care.

29 (F) Transportation to health care appointments, child care, and
30 school, as appropriate.

31 (G) Provision of child care and babysitting.

32 (H) Discipline.

33 (I) Sleeping arrangements.

34 (J) Visits among the child, his or her noncustodial parent, and
35 other appropriate family members, including the responsibilities
36 of the teen parent, the caregiver, and the foster family agency, as
37 appropriate, for facilitating the visitation. The shared responsibility
38 plan shall not conflict with the teen parent's case plan and any
39 visitation orders made by the court.

(c) Upon completion of the shared responsibility plan and any subsequent updates to the plan, a copy shall be provided to the teen parent and his or her attorney, the caregiver, the county child welfare agency or probation department and, in the case of a certified home, the agency providing direct and immediate supervision to the caregiver.

(d) The shared responsibility plan requirements shall no longer apply when the two hundred-dollar (\$200) monthly payment is made under the Kin-GAP program pursuant to Article 4.5 (commencing with Section 11360) of Chapter 2 of Part 3 to a former whole family foster home pursuant to subdivision (a) of Section 11465.

SEC. 64. Section 16503 of the Welfare and Institutions Code is amended to read:

16503. (a) Subsequent to completion of the hearing conducted pursuant to Section 366.26, the agency responsible for placement and care of a minor, as defined in subdivision (k) of Section 11400, shall ensure that a child in foster care shall receive administrative reviews periodically but no less frequently than once every six months. The administrative review shall determine the appropriateness of the placement, the continuing appropriateness and extent of compliance with the permanent plan for the child, the extent of compliance with the case plan, and adequacy of services provided to the child.

(b) The term “administrative review” means a review open to the participation of the parents of a child in foster care conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.

(c) The department shall develop and implement regulations establishing processes, procedures, and standards for the conduct of administrative reviews that conform to Section 675.6 of Title 42 of the United States Code.

(d) The requirements of this section shall not be interpreted as requiring duplicate concurrent court and administrative reviews.

SEC. 65. Section 16507.3 of the Welfare and Institutions Code is amended to read:

16507.3. (a) Beginning on October 1, 1982, child welfare services for children placed voluntarily after January 1, 1982, shall be limited to a period not to exceed 180 days. Subject to the

1 availability of federal funding, voluntary placement services for
2 federally eligible children may be extended for an additional six
3 months, for a total period not to exceed 12 months for either of
4 the following:

5 (1) Families who have a custodial parent or guardian in
6 residential substance abuse treatment who is demonstrating
7 progress that indicates the problems warranting the initial
8 placement are likely to be resolved within the extended time period.

9 (2) Families whose minor child is seriously emotionally
10 disturbed, who requires placement in a residential treatment facility,
11 who otherwise would be likely to be found to fit the description
12 in subdivision (c) of Section 300, and who reasonably may be
13 expected to be returned home within the extended time period.

14 (b) Whenever a seriously emotionally disturbed child as
15 described in paragraph (2) of subdivision (a) is initially voluntarily
16 placed, the initial placement shall be made pursuant to the approval
17 of an interagency administrative review board as described in
18 paragraph (4) of subdivision (a) of Section 16507.6.

19 (c) The extension of voluntary placement services for an
20 additional six months shall be subject to the approval of an
21 administrative review board pursuant to paragraphs (4) and (5) of
22 subdivision (a) of Section 16507.6. The extension of voluntary
23 placement services is contingent upon the receipt of federal
24 funding. Any administrative and foster care costs that exceed the
25 amount of federal reimbursement shall be paid solely with county
26 funds.

27 (d) An otherwise eligible child placed voluntarily prior to
28 January 1, 1982, may remain eligible for child welfare services
29 without regard to the length of time in placement until April 1,
30 1984. Beginning on October 1, 1982, such a child shall receive
31 administrative review pursuant to the requirements of Section
32 16503.

33 SEC. 66. Section 16507.4 of the Welfare and Institutions Code
34 is amended to read:

35 16507.4. (a) Notwithstanding any other provisions of this
36 chapter, voluntary family reunification services shall be provided
37 without fee to families who qualify, or would qualify if application
38 had been made therefor, as recipients of public assistance under
39 the Aid to Families with Dependent Children program as described
40 in the State Plan in effect on July 1, 1996. If the family is not

1 qualified for aid, voluntary family reunification services may be
2 utilized, provided that the county seeks reimbursement from the
3 parent or guardian on a statewide sliding scale according to income
4 as determined by the State Department of Social Services and
5 approved by the Department of Finance. The fee may be waived
6 if the social worker determines that the payment of the fee may
7 be a barrier to reunification. Section 17552 of the Family Code
8 shall also apply.

9 (b) An out-of-home placement of a minor without adjudication
10 by the juvenile court may occur only when all of the following
11 conditions exist:

12 (1) There is a mutual decision between the child's parent or
13 guardian and the county welfare department in accordance with
14 regulations promulgated by the State Department of Social
15 Services.

16 (2) There is a written agreement between the county welfare
17 department and the parent or guardian specifying the terms of the
18 voluntary placement. The State Department of Social Services
19 shall develop a form for voluntary placement agreements which
20 shall be used by all counties. The form shall indicate that foster
21 care under the Aid to Families with Dependent Children program
22 is available to those children.

23 (3) In the case of an Indian child, in accordance with Section
24 1913 of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 et
25 seq.), the following criteria are met:

26 (A) The parent or Indian custodian's consent to the voluntary
27 out-of-home placement is executed in writing at least 10 days after
28 the child's birth and recorded before a judge.

29 (B) The judge certifies that the terms and consequences of the
30 consent were fully explained in detail in English and were fully
31 understood by the parent or that they were interpreted into a
32 language that the parent understood.

33 (C) A parent of an Indian child may withdraw his or her consent
34 for any reason at any time and the child shall be returned to the
35 parent.

36 (c) In the case of a voluntary placement pending relinquishment,
37 a county welfare department shall have the option of delegating
38 to a licensed private adoption agency the responsibility for
39 placement by the county welfare department. If such a delegation
40 occurs, the voluntary placement agreement shall be signed by the

1 county welfare department, the child's parent or guardian, and the
2 licensed private adoption agency.

3 (d) The State Department of Social Services shall amend its
4 plan pursuant to Part E (commencing with Section 670) of
5 Subchapter IV of Chapter 7 of Title 42 of the United States Code
6 in order to conform to mandates of Public Law 96-272 and Public
7 Law 110-351 for federal financial participation in voluntary
8 placements.

9 SEC. 67. Section 16507.6 of the Welfare and Institutions Code
10 is amended to read:

11 16507.6. If a minor has been voluntarily placed with the county
12 welfare department subsequent to January 1, 1982, for out-of-home
13 placement by his or her parents or guardians pursuant to this
14 chapter and the minor has remained out of their physical custody
15 for a consecutive period not to exceed 180 days, the department
16 shall do one of the following:

17 (a) Return the minor to the physical custody of his or her parents
18 or guardians.

19 (b) Refer the minor to a licensed adoption agency for
20 consideration of adoptive planning and receipt of a permanent
21 relinquishment of care and custody rights from the parents pursuant
22 to Section 8700 of the Family Code.

23 (c) Apply for a petition pursuant to Section 332 and file the
24 petition with the juvenile court to have the minor declared a
25 dependent child of the court under Section 300, in that return to
26 the parental home would be contrary to the best interests of the
27 child.

28 (d) On and after the date that the director executes a declaration
29 pursuant to Section 11217, apply for a petition pursuant to Section
30 332 and file a petition with the juvenile court under subdivision
31 (k) of Section 300 to have a guardianship with an approved relative
32 ordered pursuant to Section 360 if the child otherwise meets the
33 conditions for federally funded Kin-GAP as provided for in Article
34 4.7 (commencing with Section 11385) of Chapter 2, and
35 out-of-home placement is in the best interest of the child.

36 (e) Refer the minor placed pursuant to paragraph (2) of
37 subdivision (a) of Section 16507.3 to an interagency administrative
38 review board as may be required in federal regulations. One
39 member of the board shall be a licensed mental health practitioner.
40 The review board shall review the appropriateness and continued

1 necessity of six additional months of voluntary placement, the
2 extent of the compliance with the voluntary placement plan, and
3 the adequacy of services to the family and child. If the minor
4 cannot be returned home by the 12th month of voluntary placement
5 services, the department shall proceed pursuant to subdivisions
6 (b), (c), or (d).

7 (f) Refer the minor placed pursuant to paragraph (1) of
8 subdivision (a) of Section 16507.3 to an administrative review
9 board as may be required in federal regulations and as described
10 in subdivision (b) of Section 16503. If the minor cannot be returned
11 home by the 12th month of voluntary placement services, the
12 department shall proceed as described in paragraph subdivisions
13 (b), (c), or (d).

14 SEC. 68. Section 16508 of the Welfare and Institutions Code,
15 as amended by Section 21 of Chapter 287 of the Statutes of 2009,
16 is amended to read:

17 16508. Permanent placement services shall be provided or
18 arranged for by county welfare department staff for children who
19 cannot safely live with their parents and are not likely to return to
20 their own homes. Permanent placement services shall be available
21 without regard to income to the following children:

22 (a) Children judged dependent under Section 300 where a review
23 has determined that reunification, adoption, tribal customary
24 adoption, or guardianship is inappropriate.

25 (b) Recipients of public assistance under the nonfederally funded
26 Aid to Families with Dependent Children Foster Care program
27 who are wards of a legal guardian pursuant to Section 11405, where
28 a review has determined that reunification or adoption is
29 inappropriate.

30 (c) On and after January 1, 2012, nonminor dependents, as
31 defined in subdivision (v) of Section 11400, who are receiving
32 AFDC-FC pursuant to Section 11403.

33 (d) This section shall remain in effect only until January 1, 2014,
34 and as of that date is repealed, unless a later enacted statute, that
35 is enacted before January 1, 2014, deletes or extends that date.

36 SEC. 69. Section 16508 of the Welfare and Institutions Code,
37 as added by Section 22 of Chapter 287 of the Statutes of 2009, is
38 amended to read:

39 16508. Permanent placement services shall be provided or
40 arranged for by county welfare department staff for children who

1 cannot safely live with their parents and are not likely to return to
2 their own homes. Permanent placement services shall be available
3 without regard to income to the following children:

4 (a) Children judged dependent under Section 300 where a review
5 has determined that reunification, adoption, or guardianship is
6 inappropriate.

7 (b) Recipients of public assistance under the nonfederally funded
8 Aid to Families with Dependent Children Foster Care program
9 who are wards of a legal guardian pursuant to Section 11405, where
10 a review has determined that reunification or adoption is
11 inappropriate.

12 (c) On and after January 1, 2012, nonminor dependents, as
13 defined in subdivision (v) of Section 11400, who are receiving
14 AFDC-FC pursuant to Section 11403.

15 (d) This section shall become operative on January 1, 2014.

16 SEC. 70. No appropriation pursuant to Section 15200 of the
17 Welfare and Institutions Code shall be made for the purpose of
18 implementing this act.

19 SEC. 71. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution for certain
21 costs that may be incurred by a local agency or school district
22 because, in that regard, this act creates a new crime or infraction,
23 eliminates a crime or infraction, or changes the penalty for a crime
24 or infraction, within the meaning of Section 17556 of the
25 Government Code, or changes the definition of a crime within the
26 meaning of Section 6 of Article XIII B of the California
27 Constitution.

28 However, if the Commission on State Mandates determines that
29 this act contains other costs mandated by the state, reimbursement
30 to local agencies and school districts for those costs shall be made
31 pursuant to Part 7 (commencing with Section 17500) of Division
32 4 of Title 2 of the Government Code.